

1 APPEARANCES:

2
3 Stephen E. Frank

4 Ian J. Stearns

5 Leslie Wright

6 Kristen Kearney

7 United States Attorney's Office

8 1 Courthouse Way

9 Suite 9200

10 Boston, MA 02210

11 617-748-3208

12 stephen.frank@usdoj.gov

13 for the Plaintiff.

14
15
16 Brian T. Kelly

17 Joshua C. Sharp

18 Lauren Maynard

19 Nixon Peabody LLP

20 100 Summer Street

21 Boston, MA 02110

22 617-345-1000

23 bkelly@nixonpeabody.com

24 for Gamal Abdelaziz.

25

1 APPEARANCES:

2
3 Robert L. Sheketoff

4 One McKinley Square

5 Boston, MA 02109

6 617-367-3449

7 sheketoffr@aol.com

8 for Gamal Abdelaziz.

9
10
11 Michael Kendall

12 Lauren M. Papenhausen

13 White & Case, LLP

14 75 State Street

15 Boston, MA 02109

16 617-939-9310

17 michael.kendall@whitecase.com

18 for John Wilson.
19
20
21
22
23
24
25

1 APPEARANCES:

2
3 Andrew E. Tomback

4 McLaughlin & Stern, LLP

5 260 Madison Avenue

6 New York, NY 10016

7 917-301-1285

8 atomback@mclaughlinstern.com

9 for John Wilson.

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11

12

13

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P R O C E E D I N G S

THE COURT: Good morning, counsel. We're ready to proceed with the second day. This is going to be primarily individual voir dire of what I'm calling the first tranche of prospective jurors. Over the evening, did counsel eliminate anymore of this first tranche? Mr. Frank?

MR. FRANK: Yes, your Honor. The government has agreed to strike three of the "for cause" jurors suggested by the defense, numbers 88, 104 and 117. The defense has agreed to strike one of the jurors that the government thought should be struck for cause, number 1, for a total of four.

THE COURT: So those are four additional overnight who have already been stricken.

MR. FRANK: Correct. I think that takes us to 75.

THE COURT: Fair enough. I can instruct the jury coordinator that those four, numbers 1, 88, 104 and 117, do not need to be in the list.

THE COURT: Apparently, 88 was already excused yesterday.

MR. FRANK: Well, we renew our agreement on that.

THE COURT: It will be 1, 104 and 117 for Mr. McAlear.

All right. With regard to the second tranche, we need your agreements. Obviously, we can't be working on that simultaneously, but we need that as soon as you can resolve it. What is the status of the work on the second group?

1 MR. FRANK: So we have not conferred about that, your
2 Honor. I can't speak for the defense. The government has
3 identified 40 jurors, potential jurors, from that group that we
4 would strike for cause: 31 of them for hardship and another 9
5 for other reasons, including prior arrests or convictions.

6 I would note, your Honor, that with respect to the
7 group one jurors who are coming in today, there are four
8 jurors, potential jurors, we've identified who failed to
9 disclose in 3 cases, completely failed to disclose prior
09:15 10 criminal charges that resulted in felony CWOs, continued
11 without finding, but for sentencing guideline purposes is a
12 felony conviction. One disclosed a misdemeanor but did not
13 disclose the quaff.

14 Then there were additional four that identified
15 hardships that we believe should be struck for cause.

16 THE COURT: What do counsel request that I do for
17 them? Do you want me to bring them in here and confront them
18 that they didn't tell me about a felony?

19 MR. KELLY: Respectfully, your Honor, no. I would
09:15 20 like to confer with the government when we're done with this
21 process here. I would only note that CWOs in the state system
22 are not conviction, so when the federal government files an 851
23 enhancement on prior convictions, they can't rely on the CWO.
24 So I have to look at the questionnaire to see if, as he
25 suggests, they lied to the Court.

1 THE COURT: In the meantime, we won't bring them up
2 and put them in the witness chair.

3 MR. KELLY: It's the second tranche.

4 MR. FRANK: It's the first tranche.

5 MR. KELLY: The first tranche? Then I suggest we ask
6 them.

7 MR. KENDALL: Your Honor, it's a continuance without a
8 finding that gets dismissed. They may have a different
9 understanding of the question than Mr. Frank did. I think we
09:16 10 should give the potential juror the chance to explain their
11 answer and we can all evaluate it.

12 THE COURT: I don't want to create unnecessary
13 embarrassment.

14 MR. KENDALL: I understand, your Honor.

15 MR. FRANK: The question asks whether they have been
16 charged with an offense other than a traffic violation. In
17 two cases, it was assault and battery. In one case, it was
18 possession of a class C substance, and one case it was
19 malicious destruction of property. I don't think there's
09:17 20 anything ambiguous about it.

21 THE COURT: We don't need to belabor this one at that
22 point. When we get to those folks, we'll address the issue
23 then. I want to know who from each party will be questioning
24 each juror. If it changes midstream, let me know.

25 Mr. Frank, will it be you?

1 MR. FRANK: No. It will be Miss Kearney.

2 THE COURT: For Mr. Abdelaziz?

3 MR. KELLY: Myself.

4 THE COURT: For Mr. Wilson?

5 MR. KENDALL: It will be me, your Honor.

6 A few other guidelines before we begin. I don't
7 expect to inquire of every potential juror about all of the
8 affirmative responses. I will inquire about one or more and
9 then I will allow counsel to inquire. I caution you once again
09:18 10 that potential jurors have rights of privacy. If I think the
11 question is too invasive of the potential juror's right to
12 privacy, I'm going to instruct him or her not to answer. So
13 keep in mind that, yes, you're entitled to know information
14 about these affirmative responses, but, at the same time, these
15 jurors are citizens who have been summonsed against their will
16 to serve as jurors and they do have rights of privacy. They
17 ought to be respected. Keep that in mind.

18 The other matter that I was thinking about is I expect
19 to remind each of the potential jurors when they take a seat
09:19 20 that they remain under oath. Yesterday they took an oath.
21 Usually, when I have witnesses who return after an overnight
22 hiatus from testifying, the first thing I do is to remind a
23 witness that he or she remains under oath. I'm going to do
24 that with respect to the jurors as they take their seats unless
25 counsel can think of some other way to accomplish this. Of

1 course, it will be very repetitive.

2 Is there anything counsel wishes to say about that?

3 MR. FRANK: No, your Honor.

4 MR. KELLY: No, your Honor.

5 MR. KENDALL: No, your Honor.

6 THE COURT: Any other questions about how we expect to
7 proceed with this voir dire?

8 Mr. McAlear, anything from the jury coordinator's
9 perspective I should be reminded of?

09:20 10 MR. MCALEAR: No, your Honor.

11 THE COURT: If I reserve somebody, I need to instruct
12 that person who is going to be released to home not to do any
13 research, et cetera. Did counsel have a chance to draft a
14 proposed written instruction that would be acceptable to all
15 sides?

16 MR. FRANK: We did not. We're working on it right
17 now.

18 THE COURT: We don't have anybody yet to reserve. It
19 does seem to me that we ought to not only tell them that they
09:20 20 can't do any independent research about the case overnight, but
21 a nice one paragraph synopsis of their obligations as a
22 reserved juror would be helpful. Work on that.

23 MR. KELLY: We will, your Honor. Perhaps the Court
24 could just inquire if they had done any research last night to
25 make sure nothing has come up between last night and today.

1 THE COURT: If I do that times 70, it's going to
2 lengthen the time. If you want to remind me from time to time
3 on a particular juror, I certainly will do that.

4 Mr. McAlear reminds me, if we reserve a juror, we'll
5 hold them in the back of the house in case after I have
6 reserved there are questions that counsel have before we send
7 them home. We'll have a short period of time after we reserve
8 the jurors for counsel to bring anything to my attention that
9 they need to do outside the hearing of the juror. Okay?

09:22 10 All right. Let's call the first potential juror.

11 MR. FRANK: Your Honor, we have our proposed
12 instruction. We could e-mail it to the deputy.

13 THE COURT: Has defense counsel looked at it?

14 MR. FRANK: No. Would it be possible to print it out
15 here and circulate it?

16 THE COURT: I think perhaps we could do that.

17 MR. MCALEAR: Juror No. 2, Keith Caito.

18 (Prospective juror enters.)

19 THE COURT: Good morning, Mr. Caito. You may remove
09:30 20 your mask if you want, but you don't have to.

21 PROSPECTIVE JUROR: I think I will, your Honor. Thank
22 you, sir.

23 THE COURT: Mr. Caito, you're reminded that you remain
24 under oath.

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: I just noticed one thing from your
2 questionnaire, that you take a medication called sertraline.
3 What is that for?

4 PROSPECTIVE JUROR: It's more mental health. I deal
5 with depression and anxiety. It's like a Zoloft type, generic,
6 that my doctor assigned me.

7 THE COURT: Does it have any effect on your ability on
8 what's being said in a courtroom, for instance?

9 PROSPECTIVE JUROR: Not that I can think of, sir.
09:30 10 It's basically a mood balancer.

11 THE COURT: You take it every day?

12 PROSPECTIVE JUROR: Yes. I take 150 milligrams every
13 day.

14 THE COURT: Would that cause any problems being a
15 juror in this case?

16 PROSPECTIVE JUROR: No. I don't think so.

17 THE COURT: Generally, Mr. Caito, can you decide this
18 case solely on the basis of the evidence that comes into this
19 courtroom and not on the basis of anything else?

09:31 20 PROSPECTIVE JUROR: Yes. Basically, anything that
21 would be said or shown or testimony, if I were here, I would
22 base my decision just on that.

23 THE COURT: Any questions, counsel? We'll start with
24 defendant Abdelaziz, Mr. Kelly.

25 MR. KELLY: Good morning. Thanks for being here.

1 PROSPECTIVE JUROR: You're welcome.

2 MR. KELLY: Is there anything about this case you've
3 seen in this questionnaire that suggests you couldn't be fair
4 to both sides?

5 PROSPECTIVE JUROR: No, nothing I haven't seen.
6 Obviously, I haven't heard anything about it and I'm not going
7 to do any research on it, no news cycle. I never heard of this
8 particular case. I heard of more prominent ones out in
9 California. I never heard of these, even though I know they're
09:32 10 similar. Never heard of them.

11 MR. KELLY: Thank you very much. Thank you for coming
12 in.

13 THE COURT: Mr. Kendall?

14 MR. KENDALL: Good morning. No questions, your Honor.

15 THE COURT: Miss Kearney?

16 MS. KEARNEY: Good morning, sir. I noticed on your
17 questionnaire that you work in food service.

18 PROSPECTIVE JUROR: Yes.

19 MS. KEARNEY: I wanted to make sure I understand.

09:32 20 Would it be any hardship for you to serve on a jury potentially
21 up to 4 weeks?

22 PROSPECTIVE JUROR: I don't work during the day. I
23 work in the afternoon slash evening. I usually work from about
24 four to 5:00 p.m. usually until about 1:00 a.m. and spend some
25 time at home to get to sleep. Sometimes I have problems with

1 sleeping and I deal with a lot of just -- I don't have a
2 disease or something. I have trouble sleeping. I literally
3 the night before -- yesterday I worked and managed to get home
4 and get an hour and a half or 2 hours, so I was very tired with
5 this. Work has been busy and tiring lately. The last couple
6 Saturdays I worked 12-hour shifts. We're getting to a busy
7 part of the year with football season here.

8 Dealing with that, as I told the Honorable Judge
9 Gorton, I deal with mental health, such as depression and
09:33 10 anxiety. I've been dealing with a lot of depression lately and
11 deal with usual anxiety on a regular basis. That's why I take
12 sertraline. A lot of times how it effects me is being
13 physically and mentally tired a lot. I deal with that a lot.
14 I'm obviously still awake-ish right now, of course, but I don't
15 get a lot of good sleep.

16 I don't work a day job. It's different. It's a
17 different mentality working late at night as opposed to during
18 the day. Normally, right now, I was scheduled to work today at
19 12. Normally, right now I'd still be trying to get ready for
09:34 20 work at this time. Obviously I'm up here now, so of course I
21 made the obligation to come up here, of course. It's
22 important. If I were to work during that time, I obviously
23 don't know exactly. I obviously told my manager about this and
24 he understood that I had to come up here and all that. If I
25 were to come up here during the day, say 5 days a week, I would

1 have to do that and my manager wouldn't give me the time off at
2 night. It would probably be come up here, do this, and then go
3 back to work and then work and come back. It would probably be
4 a bit difficult on my end to be awake and sharp. I don't think
5 it would really help me or help anybody else to be clear. If I
6 were to go to school right now, I probably couldn't handle
7 something like that. It would definitely effect me a lot
8 physically and mentally.

9 MS. KEARNEY: Thank you.

09:35 10 THE COURT: I'm hearing that you believe this would
11 cause you a hardship to serve on this jury.

12 PROSPECTIVE JUROR: Probably not to the extent of
13 like -- it would definitely be tiring, affect me physically and
14 mentally. Even with work, I work 40 plus hours a week. Even
15 with that, it would be a little bit tiresome. When I am tired
16 a lot, it does -- not my thoughts. It effects me a lot.
17 People can tell I'm tired. I see a therapist once a week.
18 She's noticed a couple weeks I've been really tired and been
19 depressed a lot lately.

09:36 20 THE COURT: Mr. Caito, it does seem to me that this is
21 going to cause you a hardship serving on this jury for roughly
22 4 weeks, and that's what I believe it takes. It's a full-time
23 job. You need to be aware and not tired and able to
24 concentrate on evidence and able to get a good night's sleep so
25 you can continue to do that the next day. It doesn't sound to

1 me like your schedule is going to allow that.

2 PROSPECTIVE JUROR: No. Unfortunately not. If I had
3 a day job and slept at night, I would be very honored to serve.

4 THE COURT: Thank you, Mr. Caito. I'm going to excuse
5 you from this jury.

6 PROSPECTIVE JUROR: Thank you, sir.

7 (Prospective juror enters.)

8 THE COURT: Good morning, Miss Morris. You may take a
9 seat. You may take your mask off if you choose to but you
09:38 10 don't have to.

11 PROSPECTIVE JUROR: Okey-doke.

12 THE COURT: Miss Morris, you're reminded that you
13 remain under oath. I have looked at your questionnaire and I
14 understand that you live with compromised elderly parents.

15 PROSPECTIVE JUROR: Correct.

16 THE COURT: Would service on this jury cause you
17 hardship to as a result of that?

18 PROSPECTIVE JUROR: It would cause me hardship because
19 I would have to isolate myself from being around so many
09:38 20 people. I'm a full-time caregiver to my dad.

21 THE COURT: I take it you feel that service on this
22 jury would be a hardship to you.

23 PROSPECTIVE JUROR: Yes, being around so many people.

24 THE COURT: I'm going to excuse you from this jury.

25 Thank you, Miss Morris.

1 PROSPECTIVE JUROR: Thank you very much, your Honor.

2 (Prospective juror exits.)

3 (Prospective juror enters.)

4 THE COURT: Good morning, Miss Lightbody.

5 PROSPECTIVE JUROR: Good morning.

6 THE COURT: Please be seated. You're reminded that
7 you remain under oath. You make take your mask off if you want
8 to but you don't have to. It's up to you.

9 PROSPECTIVE JUROR: Thank you.

09:39 10 THE COURT: If you'd pull that microphone a little
11 close so we can hear. Miss Lightbody, I understand that your
12 cousin's husband was a Boston detective, is that right?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Would the fact that you have a distant
15 relationship to a law enforcement officer in any way affect
16 your ability to be fair and impartial in this case?

17 PROSPECTIVE JUROR: No.

18 THE COURT: You could decide this case solely on the
19 basis of evidence that comes into this courtroom and not on the
09:40 20 basis to any prior relationship to a law enforcement officer?

21 PROSPECTIVE JUROR: Correct.

22 THE COURT: You apparently work with a college coach
23 with respect to your son. I'm not sure I understand that.

24 PROSPECTIVE JUROR: Correct. So I have a senior in
25 high school who is going to be a freshman in college come the

1 fall of 2022.

2 THE COURT: Would the fact that he's involved in
3 sports and about ready to go to college in any way affect your
4 ability to be fair and impartial in this case, which of course
5 involves allegations of fraudulent college admissions?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Let me see if I can understand. You think
8 you can be fair and impartial and decide this case based solely
9 on the evidence that comes into this courtroom and not on
09:41 10 anything else, is that right?

11 PROSPECTIVE JUROR: Correct.

12 THE COURT: Any questions for this potential juror?
13 Mr. Kelly?

14 MR. KELLY: Good morning. I represent Mr. Abdelaziz.
15 My name's Brian Kelly. Thank you for coming in.

16 Simple question is, in reviewing this questionnaire,
17 is there anything in there that suggests to you that you
18 couldn't be fair to all sides?

19 PROSPECTIVE JUROR: No. There's nothing. All voices
09:41 20 need to be heard. You're innocent until proven guilty.

21 MR. KELLY: Thank you very much.

22 THE COURT: Mr. Kendall?

23 MR. KENDALL: Good morning. I'm Mike Kendall. I
24 represent John Wilson. No questions, your Honor.

25 THE COURT: Miss Kearney?

1 MS. KEARNEY: Good morning, Miss Lightbody. With
2 respect to the college coach you're working with for your son,
3 how often does he meet with your son or what kind of work is he
4 doing? If you could elaborate a little bit more.

5 PROSPECTIVE JUROR: Sure. It's a she. He's only had
6 one meeting. It's really just to keep him organized and just
7 giving him milestones through the college process, like saying,
8 hey, August 1st, the common app process is open. You should
9 have your essay is done by this time, teacher recommendations
09:42 10 on this time. So it's really just keeping him organized. It's
11 really my husband and I forming that spreadsheet and kind of
12 having the columns and checklists and things of that nature,
13 but having someone other than his parents harping on him to
14 make sure that he's following each step in the process.

15 MS. KEARNEY: Thank you.

16 THE COURT: Thank you, Miss Lightbody. I am going to
17 have you reserved. We're not going to go forward with any
18 further procedure today. The jury coordinator will tell you
19 what room you are to go. You're going to be asked to come back
09:43 20 perhaps at a later time. I caution you not to try to do any
21 independent research on this case. Don't refer to the internet
22 or any of those electronic tools that help us in daily life.
23 You can't do this about this case because you're going to
24 decide eventually, if you're chosen as a juror, solely on the
25 basis of the evidence that comes into this courtroom and not on

1 the basis of any independent research. Okay?

2 PROSPECTIVE JUROR: That's correct. Yes.

3 THE COURT: The jury coordinator will tell you where
4 you need to go.

5 (Prospective juror exits.)

6 (Prospective juror enters.)

7 Good morning, Miss Layton. You may be seated. You
8 are reminded you're under oath. You may take your mask off if
9 you choose, but you don't have to. If you'd pull that
09:44 10 microphone a little closer to you so we can hear your answers.

11 Miss late on, I understand at least one of the
12 questions you answered affirmatively is that someone you know
13 or in your family was convicted of possession and theft and
14 served some time in jail.

15 PROSPECTIVE JUROR: That's correct.

16 THE COURT: Were you involved in the prosecution of
17 this person? Was it a relative or someone in your family?

18 PROSPECTIVE JUROR: It was my cousin, but I was not
19 involved.

09:45 20 THE COURT: Have you talked to your cousin about
21 having served in prison?

22 PROSPECTIVE JUROR: Not lately.

23 THE COURT: Would the fact that somebody in your
24 family was involved in the criminal justice system in any way
25 affect your ability to be fair and impartial in this case,

1 which of course involves charges of a completely different kind
2 of criminal conduct?

3 PROSPECTIVE JUROR: No. I don't believe so.

4 THE COURT: You could decide this case solely on the
5 basis of the evidence that comes into this courtroom and not on
6 the basis of anything has happened elsewhere?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: I understand that you played soccer or
9 somebody in your family played soccer in college?

09:45 10 PROSPECTIVE JUROR: Yes, I did.

11 THE COURT: Would the fact that these charges involve
12 allegations of falsifying records of sports prowess in any way
13 affect your ability to be fair and impartial in this case
14 having been a college athlete in your case?

15 PROSPECTIVE JUROR: I can't say for sure one way or
16 know in what way way, but it would definitely play a factor.

17 THE COURT: By "play a factor", what do you mean?

18 PROSPECTIVE JUROR: I think it would depend on the
19 situation how it was falsified, did that person take someone
09:46 20 else's spot completely.

21 THE COURT: So it would depend on the evidence that
22 comes before you and not on the basis of the fact that you're a
23 college athlete?

24 PROSPECTIVE JUROR: I suppose so.

25 THE COURT: That right?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Any questions for this potential juror?

3 MR. KELLY: Yes. Good morning. I represent Mr. Aziz.
4 You just said you suppose so. Is there some hesitation that
5 your prior playing status might affect your decision here?

6 PROSPECTIVE JUROR: I think it's a big thing that I
7 was a student athlete. I went through the process. I was
8 fully involved. If someone had to take someone else's spot or
9 someone was removed, just the kind of integrity of the student
09:47 10 athlete circumstance was questioned, I think I would have a
11 different mind-set than someone who wasn't involved at all.

12 MR. KELLY: It was D3 you played?

13 PROSPECTIVE JUROR: Yes.

14 MR. KELLY: What position?

15 PROSPECTIVE JUROR: Defense.

16 MR. KELLY: Is anything about going through this
17 questionnaire suggest anything to you that would make you feel
18 like you couldn't be fair to the defense and the government?

19 PROSPECTIVE JUROR: No.

09:47 20 THE COURT: Mr. Kendall.

21 MR. KENDALL: Hi. I'm Mike Kendall. I represent John
22 Wilson. Thank you for coming in this morning. We appreciate
23 your frankness of your answers. I just wanted to ask a couple
24 of points.

25 You expressed concern if somebody's spot was taken.

1 Is this based upon -- I take it this is obviously based upon
2 your own experience as an athlete and your own process of going
3 through the college athletic system?

4 PROSPECTIVE JUROR: Yes.

5 MR. KENDALL: How many years did you play at Anna
6 Maria?

7 PROSPECTIVE JUROR: Four.

8 MR. KENDALL: I take it that prior knowledge and
9 experience is something you would make as part of your thinking
09:48 10 or analysis of the evidence.

11 PROSPECTIVE JUROR: Absolutely.

12 MR. KENDALL: It would be hard to separate?

13 PROSPECTIVE JUROR: Probably, yes.

14 MR. KENDALL: Appreciate your candor.

15 THE COURT: Thank you.

16 MS. KEARNEY: Do you feel your cousin was treated
17 fairly in the criminal justice system?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Thank you, Miss Layton. I'm going to ask
09:48 20 you to be reserved with the jury coordinator. You're reminded
21 that if you are to be called back, please do not do any
22 independent research on this case. That would be totally
23 inappropriate because you're going to decide this case, if you
24 are chosen as a juror, solely on the basis of the evidence that
25 comes into this courtroom and not on the basis of anything that

1 you found out about the case. Okay?

2 PROSPECTIVE JUROR: All right.

3 (Prospective juror exits.)

4 MR. KELLY: Procedurally is now the time?

5 THE COURT: Hold the next potential juror, please.

6 MR. KELLY: We would move to excuse that juror for
7 cause. We think her statements about her playing history
8 suggests to us that she cannot be fair in this case to our
9 client. She seemed to have very firm beliefs about this case
09:49 10 involving taking a spot from somebody else. We think her
11 answers reflected hostility to the defense side that we believe
12 justify a strike for cause, your Honor.

13 THE COURT: Mr. Kendall?

14 MR. KENDALL: I might add one point. In some ways she
15 was a very responsible, honest person. That's to be commended.
16 It shows a responsible person. I think I would agree I had a
17 very light touch and she admitted freely she cannot separate
18 her prior experience and her out of court experience as a
19 college athlete in deciding this case. She was very upfront
09:50 20 about that. I didn't push very hard. I let her answer a fairly
21 open question. I think that's the essential issue that
22 disqualifies somebody, if they're going to bring out of court
23 experience and things outside the evidence that they cannot
24 separate from their decision-making in this case that has
25 personal experience with the same facts in this case. I think

1 it's a very strong basis to challenge her, your Honor.

2 THE COURT: Miss Kearney or Mr. Frank.

3 MR. FRANK: Your Honor, every juror brings life
4 experience to the case. We can't just disqualify any juror
5 because they were a college athlete. She said she could keep
6 an open mind and be impartial. As Mr. Kendall said, there was
7 nothing about her answer that suggested a lack of integrity.
8 We don't think simply because she was a college athlete that
9 that's a disqualifier.

09:51 10 THE COURT: I'm not going to exclude her for cause. I
11 think she answered the questions that I asked about being able
12 to decide this case based solely on the evidence that comes
13 before this Court. I take her answers as truthful. She will
14 not be stricken for cause.

15 Call the next potential juror.

16 (Prospective juror enters.)

17 THE COURT: Good morning, Mr. Ross. You're reminded
18 you're under oath. You may remove your mask, if you choose.
19 If you will pull the microphone closer to you so we can hear
09:52 20 your answers.

21 Mr. Ross, I understand that you were once before on
22 jury duty, is that right?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Would you tell me about that.

25 PROSPECTIVE JUROR: It was a trial based on --

1 THE COURT: Civil trial.

2 PROSPECTIVE JUROR: Civil trial, using other people's
3 money.

4 THE COURT: Do you remember what court it was?

5 PROSPECTIVE JUROR: Yes, the one down by State Street.

6 THE COURT: The state court, Suffolk Superior Court.

7 PROSPECTIVE JUROR: Yes, sir. It was almost 15 years
8 ago. It's been a while. The trial was about the infomercial
9 where you say you use other people's money to make money.

09:52 10 THE COURT: Do you remember how the case came out?

11 PROSPECTIVE JUROR: Yes, sir. They were found guilty.

12 THE COURT: Liable.

13 PROSPECTIVE JUROR: Liable, yes, sir. They couldn't
14 come up with anybody that said, okay, use my money and I
15 benefitted from what you said. In fact, it was the opposite.

16 THE COURT: Would that experience, Mr. Ross, in any
17 way affect your ability to be fair and impartial in this case?

18 PROSPECTIVE JUROR: I'd be fair.

19 THE COURT: You could be fair in this case?

09:53 20 PROSPECTIVE JUROR: Yes, sir.

21 THE COURT: You also mentioned that someone in your
22 family at one point was a mailman for Harvard University.

23 PROSPECTIVE JUROR: I am.

24 THE COURT: Currently.

25 PROSPECTIVE JUROR: One aspect. Harvard has offices

1 in Brighton on Guest Street. I'm the mailman for them.

2 THE COURT: You understand that universities are
3 involved in this case. Would the fact that you worked for
4 Harvard affect your ability to be fair and impartial in this
5 case?

6 PROSPECTIVE JUROR: I don't work for Harvard. I work
7 for the United States Post Office. I deliver mail to one of
8 their offices.

9 THE COURT: Would that connection in Harvard in any
09:53 10 way affect your ability?

11 PROSPECTIVE JUROR: No. It wouldn't affect my
12 ability. I wanted to mention that because they said any kind
13 of ties.

14 THE COURT: Absolutely correct to mention it.

15 Is there anything else that would prevent you from
16 being fair and impartial in this case that you can think of?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Any questions, Mr. Kelly, for this
19 potential juror?

09:54 20 MR. KELLY: Sure. Thank you. Good morning. Thank
21 you for coming in. I represent Mr. Aziz here. Couple quick
22 questions.

23 You referenced the experience you had in that civil
24 case.

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: Would you be comfortable understanding
2 that this case is criminal and the burden of proof is beyond a
3 reasonable doubt, whereas in a civil case that you sat on it's
4 just more likely than not is the burden of proof? Would you
5 feel comfortable distinguishing between your prior service in a
6 civil case and this one being criminal? In a criminal case,
7 the government has to prove things beyond a reasonable doubt.
8 In a civil case, two people are suing each other over money.
9 It's a different standard. Are you comfortable with that?

09:55 10 PROSPECTIVE JUROR: Yes, sir.

11 MR. KELLY: This case will involve a lot of
12 discussions about college sports. Do you follow any college
13 sports in general?

14 PROSPECTIVE JUROR: I more follow the pro sports, not
15 really much on college sports, except for college basketball
16 where you do the bracket. Just the NCAA bracket. That's all
17 for my college sports following. Then I just pick teams. It
18 isn't like I follow teams.

19 MR. KELLY: The March Madness stuff? There's not much
09:55 20 around here. We don't have good college teams here.

21 Anything about the questionnaire that would make you
22 not fair to all sides?

23 PROSPECTIVE JUROR: No. I think I would be able to
24 give a fair and honest effort. Whatever happens, happens.

25 MR. KELLY: Thank you.

1 THE COURT: Mr. Kendall.

2 MR. KENDALL: Good morning. I'm Mike Kendall. I
3 represent John Wilson. I have no questions.

4 THE COURT: Miss Kearney?

5 MS. KEARNEY: No questions.

6 THE COURT: Thank you, Mr. Ross. I'll ask you to be
7 reserved on this case. That means Mr. McAlear will tell you
8 where to go. If you are called back, please do not do any
9 research, independent research, on this case. Don't try to
09:56 10 find out what's going on because you're going to decide this
11 case, if you're chosen as a juror, solely on the basis of
12 evidence that comes in this courtroom and not outside research.
13 Okay?

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Thank you, Mr. Ross.

16 (Prospective juror exits.)

17 (Prospective juror enters.)

18 THE COURT: Good morning, Mr. Ayles. Please take a
19 seat. You're reminded you're still under oath. You may remove
09:57 20 your mask if you want to, but you don't have to. Would you
21 speak right into the meek phone, please.

22 Mr. Ayles, I understand you have a job that requires
23 daily attention and guidance. Would service on this jury
24 impose a hardship on you with respect to your job?

25 PROSPECTIVE JUROR: More so on the city that I'm

1 employed with.

2 THE COURT: You're employed by a municipality?

3 PROSPECTIVE JUROR: Correct.

4 THE COURT: What do you do for them?

5 PROSPECTIVE JUROR: I'm their chief financial officer,
6 director of municipal finance.

7 THE COURT: So you could serve on this jury.

8 Understand that you probably have to take a leave. How many
9 other employees in your department?

09:58 10 PROSPECTIVE JUROR: I have about 25 that report within
11 the finance department.

12 THE COURT: So the municipality wouldn't go bankrupt
13 without you for 4 weeks?

14 PROSPECTIVE JUROR: No, sir.

15 THE COURT: Could you be fair and impartial in this
16 case and decide this case solely on the basis of the evidence
17 that comes into this courtroom and not on the basis of any
18 outside influence?

19 PROSPECTIVE JUROR: I feel I could.

09:58 20 THE COURT: Is there anything in the questionnaire
21 that caused you concern about your ability to be fair and
22 impartial in this case?

23 PROSPECTIVE JUROR: No, your Honor.

24 THE COURT: Mr. Kelly, any questions for this
25 potential juror?

1 MR. KELLY: Just quickly, your Honor. Good morning.
2 Thanks for coming in. I represent defendant Abdelaziz.

3 One of the questions on the questionnaire referenced
4 you saw an article recently in the Boston Globe.

5 PROSPECTIVE JUROR: Yes.

6 MR. KELLY: Anything about that stick in your memory?

7 PROSPECTIVE JUROR: No. I perused through the article
8 so I'd have a general understanding of what the case was about.
9 Didn't really focus on any of the details.

09:59 10 MR. KELLY: Anything about that that you think would
11 make you favor one side over the other?

12 PROSPECTIVE JUROR: No, sir.

13 MR. KELLY: Would that article or anything else in
14 this questionnaire make you feel like you couldn't be fair to
15 defense and the government?

16 PROSPECTIVE JUROR: No, sir.

17 MR. KELLY: Nothing further.

18 THE COURT: Mr. Kendall?

19 MR. KENDALL: Good morning. No questions, your Honor.

09:59 20 THE COURT: Miss Kearney?

21 MS. KEARNEY: Good morning, sir. In your
22 questionnaire you referenced an incident where you were a
23 teenager. I just wanted to ask you if there was anything about
24 that experience that might affect your ability to be fair and
25 impartial in this criminal trial.

1 PROSPECTIVE JUROR: No. Not about those, no.

2 THE COURT: Did you feel you were treated fairly in
3 that experience?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: I also notice that in a prior position you
6 had some fundraising responsibility. Can you elaborate on that
7 a little bit?

8 PROSPECTIVE JUROR: Yes. Prior to my role with the
9 municipality now, I was director of operations for a quasi-y
10:00 10 state quasi-y nonprofit that did fundraising and implemented
11 child abuse programs throughout the state, did some legislative
12 work. So we raised money to help further those efforts.

13 MS. KEARNEY: Did you personally have any fundraising
14 goals you had to meet?

15 PROSPECTIVE JUROR: Not me personally. The director
16 of development reported to me. They were in charge of all the
17 fundraising activities.

18 MS. KEARNEY: Thank you, sir.

19 THE COURT: Thank you, Mr. Ayles. I'll ask you to be
10:00 20 reserved and go with Mr. McAlear. You are, of course,
21 instructed not to do any independent research in this case if
22 you were to be called back to sit as a juror. You're going to
23 decide this case solely on the basis of the evidence that comes
24 into this courtroom. Don't do any research in the meantime.

25 PROSPECTIVE JUROR: Understood, your Honor. Thank

1 you.

2 (Prospective juror exits.)

3 (Prospective juror enters.)

4 THE COURT: Good morning, Miss Miville. Is that how
5 you pronounce it?

6 PROSPECTIVE JUROR: Close enough.

7 THE COURT: Miss Miville. You're reminded you're
8 under oath, Miss Miville. You may remove your mask if you want
9 to, but you don't have to. Would you pull that microphone
10:01 10 close so we can hear you.

11 PROSPECTIVE JUROR: Good morning.

12 THE COURT: Good morning. You mentioned you just
13 started a new job. If you were chosen as a juror, you'd be out
14 of that job for probably 4 weeks. Would that cause you a
15 hardship?

16 PROSPECTIVE JUROR: Very much so. I have a disabled
17 husband at home. I'm the only income right now.

18 THE COURT: I'm going to excuse you from this jury.
19 It's important for you to get off to a good start at your job.
10:02 20 It sounds to me --

21 PROSPECTIVE JUROR: At my age, brand new.

22 THE COURT: Your age is pretty young from my vantage
23 point, so don't worry about that. I understand how this could
24 cause you a hardship. I'm not going to require you to serve.
25 Thank you. You're excused.

1 (Prospective juror exits.)

2 (Prospective juror enters.)

3 Good morning. Is it Mr. Keohan.

4 PROSPECTIVE JUROR: Keohan.

5 THE COURT: Mr. Keohan, you're reminded that you
6 remain under oath. You may remove your mask if you want to,
7 but you don't have to.

8 PROSPECTIVE JUROR: Okay.

9 THE COURT: Would you pull that microphone close so we
10:03 10 can all hear when you answer my questions.

11 Mr. Keohan, I understand that back in college you
12 played basketball and football.

13 PROSPECTIVE JUROR: No. My sons did.

14 THE COURT: You had relations that played college
15 athletics, right?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: This case, of course, involves allegations
18 of falsely claiming to be athletes and getting into college
19 under false pretenses. Would the fact that you have
10:04 20 connections with people that were actually athletes in college
21 in any way affect your ability to be fair and impartial in this
22 case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: You could decide this case solely on the
25 basis of the evidence that comes into this courtroom and not on

1 the basis of any prior knowledge of sports?

2 PROSPECTIVE JUROR: No. Absolutely could.

3 THE COURT: Apparently, somebody in your family was
4 convicted of operating under the influence sometime ago.

5 PROSPECTIVE JUROR: Correct.

6 THE COURT: Was that person involved in a criminal
7 proceeding?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Were you present? Did you participate in
10:04 10 that?

11 PROSPECTIVE JUROR: No.

12 THE COURT: So would that involvement with the
13 criminal justice system, even as indirect as that was, in any
14 way affect your ability to be fair and impartial in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Apparently, your first cousin worked for
17 the FBI.

18 PROSPECTIVE JUROR: Correct.

19 THE COURT: Would the fact that you have connections
10:05 20 with law enforcement in any way affect your ability to be fair
21 and impartial in this case, which may involve the testimony of
22 law enforcement officers?

23 PROSPECTIVE JUROR: Not at all.

24 THE COURT: Any questions for this potential juror,
25 Mr. Kelly?

1 MR. KELLY: Sure. Good morning. Thanks for coming
2 in. I represent Mr. Aziz here. What is your cousin's name?

3 PROSPECTIVE JUROR: Robert Oxley, O-x-l-e-y.

4 THE COURT: How long did he work for the bureau in
5 Boston?

6 PROSPECTIVE JUROR: I think he actually was in
7 Virginia first. I think he's retired now. He retired, is
8 working security somewhere in Manchester.

9 MR. KELLY: Do you get along with your cousin?

10:06 10 PROSPECTIVE JUROR: Yes. I don't see him often.

11 MR. KELLY: Anything about that, the fact he worked
12 for the FBI, if there are FBI agents in this case, would tend
13 to make you more or less receptive to the FBI agents'
14 testimony?

15 PROSPECTIVE JUROR: No. Not at all.

16 MR. KELLY: Nothing in this questionnaire or
17 proceedings today suggest to you you can't be fair in this
18 case?

19 PROSPECTIVE JUROR: No.

10:06 20 MR. KELLY: You referenced sports questions there.
21 Are there any college sports in particular you follow?

22 PROSPECTIVE JUROR: I'm a sports fan.

23 MR. KELLY: Thanks. Nothing more.

24 PROSPECTIVE JUROR: You're welcome.

25 THE COURT: Mr. Kendall?

1 MR. KENDALL: Good morning. I represent John Wilson.
2 Thank you for coming in. I have no questions.

3 THE COURT: Miss Kearney?

4 MS. KEARNEY: Good morning, Mr. Keohan.

5 PROSPECTIVE JUROR: Good morning.

6 MS. KEARNEY: I want to ask you about your experience
7 with the criminal justice system. Is there anything about your
8 history that might affect your ability to be fair and impartial
9 in terms of a criminal case?

10:07 10 PROSPECTIVE JUROR: No.

11 MS. KEARNEY: If you had any experience with the
12 criminal justice system yourself, do you feel you were treated
13 fairly?

14 PROSPECTIVE JUROR: Sorry?

15 MS. KEARNEY: If you had any experience with the
16 criminal justice system yourself, do you feel you were treated
17 fairly?

18 PROSPECTIVE JUROR: Yes.

19 MS. KEARNEY: Thank you.

10:07 20 THE COURT: Thank you, Mr. Keohan. I'm going to ask
21 you to be what we call reserved. Mr. McAlear will show you the
22 room you're called to. If you're called back on other
23 occasion, please don't try to do any research between now and
24 then on the internet. That would be entirely inappropriate
25 because if you're chosen as a juror in this case, you're going

1 to decide the case solely on the basis of evidence that comes
2 into this courtroom and not on the basis of any independent
3 research. Okay?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Thank you, Mr. Keohan.

6 PROSPECTIVE JUROR: Thank you.

7 (Prospective juror exits.)

8 MS. KEARNEY: Your Honor, before the next juror comes
9 in, we wanted to address something.

10:08 10 THE COURT: Yes.

11 MS. KEARNEY: The government wants to strike Juror 18
12 for cause. He has a conviction for larceny more than \$250,
13 which would be a felony conviction. He also has several drunk
14 driving arrests that he was not fully forthcoming about. He
15 said it was with somebody else in his family, not him.

16 MR. KELLY: That's news to us. This morning they
17 didn't note that to us about Juror 18. They noted others about
18 CWOFS. This is the first we're hearing that. We would oppose
19 that.

10:08 20 MS. KEARNEY: I'm happy to share his criminal record.
21 I just noticed it myself.

22 MR. KENDALL: I'd ask to bring the witness in and ask
23 him why he didn't mention it.

24 MR. KELLY: It's a pretty common name. Keohan in
25 Boston is pretty common. Let's see if it's really him.

1 THE COURT: Let's call Mr. Keohan back. You may
2 inquire of those.

3 MS. KEARNEY: Yes, your Honor. I didn't want to
4 embarrass him.

5 THE COURT: I understand.

6 (Prospective juror enters.)

7 THE COURT: Thank you for coming in, Mr. Keohan.
8 There are a few other questions that one of the attorneys would
9 like to ask you.

10:09 10 PROSPECTIVE JUROR: Okay.

11 THE COURT: You may continue, Miss Kearney.

12 MS. KEARNEY: Good morning again. I wanted to
13 follow-up. Were you recently charged in 2019 with leaving a
14 scene for property damage?

15 PROSPECTIVE JUROR: With OUI.

16 MS. KEARNEY: Did you plead guilty to that offense?

17 PROSPECTIVE JUROR: I did.

18 MS. KEARNEY: How many OUIs have you been charged
19 with?

10:10 20 PROSPECTIVE JUROR: Two.

21 MS. KEARNEY: In 1992, were you convicted of larceny?

22 PROSPECTIVE JUROR: No. I don't know where that came
23 from.

24 THE COURT: Do you have any idea what that?

25 PROSPECTIVE JUROR: I've never been charged with

1 larceny.

2 MS. KEARNEY: With theft of any kind?

3 PROSPECTIVE JUROR: Nothing.

4 MR. KELLY: Thank you, sir.

5 THE COURT: Do defendants counsel wish to ask any
6 questions?

7 MR. KELLY: No. Not at all. Thank you.

8 THE COURT: Mr. Kendall?

9 MR. KENDALL: Thank you.

10:10 10 PROSPECTIVE JUROR: Could I ask about the larceny?

11 THE COURT: Yes, of course.

12 PROSPECTIVE JUROR: I've never been charged with
13 larceny. I don't know where that came from.

14 THE COURT: It was a misidentification as far as
15 you're concerned?

16 PROSPECTIVE JUROR: Yes. Absolutely. How do I look
17 into that?

18 THE COURT: That's a separate matter, Mr. Keohan.
19 That doesn't involve this case. You're certainly entitled to
10:11 20 look into it if you want to. Thank you, Mr. Keohan.

21 (Prospective juror exits.)

22 THE COURT: Miss Kearney?

23 MS. KEARNEY: The government still moves to strike
24 Mr. Keohan for cause given that he was not forthcoming with the
25 Court initially regarding his OUIs, and it also does appear he

1 has a larceny conviction on the rap sheet as the OUIs he
2 described. Understanding he doesn't believe that that's him,
3 the rest of the convictions appear to match up.

4 THE COURT: Mr. Kelly.

5 MR. KELLY: On the questionnaire, he said OUI. He
6 didn't lie about it. He put it on the questionnaire. If you
7 look at 31, he's not lying about that. The larceny's not him.
8 Sometimes people get misidentified on rap sheets with people
9 with common names. The Court can assess for itself his
10:12 10 credibility. I respectfully admit there's nothing wrong with
11 that juror.

12 THE COURT: Mr. Kendall?

13 MR. KENDALL: I want to reaffirm what he said. It
14 says 2-year Probation OUI class, misdemeanor, OUI. If they
15 thought there was something about his response that wasn't
16 appropriate, they should have asked him. As soon as it was
17 raised, he immediately said it. He said there was a second.
18 He said there was property damage. He was not looking to hide
19 anything from this Court. Thank you.

10:12 20 THE COURT: Miss Kearney?

21 MS. KEARNEY: I believe the Court specifically asked
22 if it was him or someone else who was involved with the prior
23 OUI that he disclosed and he said it was someone else.

24 THE COURT: I'm not going to excuse him for cause. I
25 think he might have misunderstood my question. He was under

1 oath. He said he could decide this case solely on the basis of
2 the evidence that comes into this courtroom. I understood him
3 to be an honest person. I'm not going to strike him for cause.

4 We'll call the next potential juror.

5 (Prospective juror enters.)

6 THE COURT: Good morning, Miss Williams. Please be
7 seated. You're reminded that you remain under oath. You may
8 remove your mask if you want to, but you don't have to. If
9 you'll pull that microphone close in so we can hear what you
10:13 10 have to say.

11 Miss Williams, I understand you're a school teacher
12 and you've just started with your new year. Where do you teach
13 school?

14 PROSPECTIVE JUROR: Needham, Massachusetts.

15 THE COURT: What level?

16 PROSPECTIVE JUROR: Ninth graders and 12th graders.

17 THE COURT: In the high school?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: What courses do you teach?

10:14 20 PROSPECTIVE JUROR: Senior wellness will be yoga,
21 games, nutrition, and CPR.

22 THE COURT: Would the fact that this is going to be
23 about a 4-week trial cause you hardship? It may cause your
24 students hardship, I'm sure, but would it cause you a hardship?

25 PROSPECTIVE JUROR: Just in terms of -- relationship

1 building because right now I'm establishing. We would be
2 probably one rotation, one full rotation that I would miss
3 them.

4 THE COURT: We ask jurors to undergo inconvenience
5 because all jury duty causes people inconvenience, but we don't
6 require them to undergo hardship. Sometimes the difference
7 between inconvenience and hardship is very hard to draw.
8 There's a thin line. I don't like to cause people hardship in
9 their employment, but it's a civic duty to serve on juries, so
10:15 10 it's very important that we have citizens willing to undergo
11 inconvenience. I'm going to leave it up to you to tell me
12 whether this is going to be more in the nature of an
13 inconvenience for everybody or a real educational hardship for
14 you and/or for the Needham students that you won't be able to
15 teach. You tell me.

16 PROSPECTIVE JUROR: I think it's going to be, if
17 elected, an inconvenience, but I don't think it would be an
18 absolute hardship.

19 THE COURT: So you would be willing to do it even
10:15 20 though you're going to be out of your job for 4 weeks or so, is
21 that right?

22 PROSPECTIVE JUROR: Uh-hum.

23 THE COURT: It wouldn't cause you to be concerned
24 while you're sitting here as a juror thinking about, oh, I
25 should be teaching my students? Would it be too much to

1 concentrate on this case?

2 PROSPECTIVE JUROR: To be honest, I would probably be
3 thinking a little bit about that.

4 THE COURT: You think they could survive?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Do you have any assistants that will take
7 over your teaching duties for those 4 weeks?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Are you confident they can do a good job?

10:16 10 PROSPECTIVE JUROR: We have a really great staff at
11 Needham.

12 THE COURT: You're confident they would do a good job
13 in your absence?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: You can decide this case on the evidence
16 brought into the courtroom and not on any influence from the
17 outside?

18 PROSPECTIVE JUROR: Right.

19 THE COURT: Is there anything in that questionnaire
10:16 20 that caused you concern when you were answering these questions
21 that you might not be able to be fair and impartial?

22 PROSPECTIVE JUROR: No. I don't think so.

23 THE COURT: Mr. Kelly, any questions for this
24 potential juror?

25 MR. KELLY: Sure. Thank you for coming in. I

1 represent Mr. Aziz here. How many students do you teach?

2 PROSPECTIVE JUROR: 120. Right now we're doing
3 seniors. I would be teaching seniors.

4 MR. KELLY: So your class just started?

5 PROSPECTIVE JUROR: Yes. This would be our third day.

6 MR. KELLY: If we have a 4-week trial, that's going to
7 pose a major inconvenience, correct?

8 PROSPECTIVE JUROR: It's going to be inconvenient. I
9 will not tell you any other way.

10:17 10 MR. KELLY: You say you'd be thinking about your
11 students.

12 PROSPECTIVE JUROR: At way back there, yeah, but I
13 think I'm competent to focus on what's in front of me.

14 MR. KELLY: Is there any issues with the school system
15 with you taking off a month at the start of the school year?

16 PROSPECTIVE JUROR: I've never done this before so
17 I've never checked in. I just check in with my department
18 head. She said she would follow-up on what happens.

19 MR. KELLY: So you never served on a jury before?

10:18 20 PROSPECTIVE JUROR: I've never served on a jury that
21 lasted more than just one day.

22 MR. KELLY: You served on one-day juries?

23 PROSPECTIVE JUROR: Yes.

24 MR. KELLY: Was it criminal or civil?

25 PROSPECTIVE JUROR: I'm thinking it was criminal.

1 MR. KELLY: This case is a criminal case where the
2 burden is on the government to prove beyond a reasonable doubt.
3 A civil case is they're arguing about money and they have to
4 prove things more likely than not. Are you okay with that
5 distinction?

6 PROSPECTIVE JUROR: Yes.

7 MR. KELLY: Okay. Nothing further.

8 THE COURT: Mr. Kendall?

9 MR. KENDALL: Good morning. No questions.

10:18 10 THE COURT: Miss Kearney?

11 MS. KEARNEY: Good morning. No questions, your Honor.

12 THE COURT: Thank you, Miss Williams. I'm going to
13 ask you to be reserved. That means you're going to go with
14 Mr. McAlear to another room. You may be called back to be
15 selected as a juror on this case. I remind you not to try to
16 do any independent research. Don't go on the internet and try
17 to discover facts that relate to this case. If you are chosen
18 to be a juror, you're going to decide the case solely on the
19 basis of the evidence that comes into this courtroom and not on
10:19 20 the basis of anything you could find on the internet. Okay?

21 PROSPECTIVE JUROR: So just referring back to your
22 question, can I ask one?

23 THE COURT: Yes.

24 PROSPECTIVE JUROR: Should I contact my school system
25 to see their feelings?

1 THE COURT: Mr. McAlear will tell you about that. You
2 haven't been selected as a juror, but you haven't been excused
3 either. You're in limbo at this stage, along with a bunch of
4 other people. We'll certainly let you know as soon as we can.
5 Thank you, Miss Williams.

6 (Prospective juror exits.)

7 MR. KELLY: Your Honor, with respect to that juror,
8 defendants would move to strike for cause given her teaching
9 120 students and her hesitation I observed on whether her full
10:20 10 attention could be on this trial and this case. We would move
11 to strike her for cause.

12 THE COURT: Miss Kearney?

13 MS. KEARNEY: Your Honor, she was clear responding to
14 your questions that, while it would be an inconvenience, it
15 would not be a hardship and would be able to focus on the
16 evidence. Given that, we would not.

17 THE COURT: I'm not going to strike her for cause.
18 Bring in the next potential juror.

19 (Prospective juror enters.)

10:21 20 THE COURT: Good morning. Is it Miss Heyl?

21 PROSPECTIVE JUROR: Heyl.

22 THE COURT: Miss Heyl, please be seated. You may take
23 your mask off, but you don't have to. Miss Heyl, I understand
24 you teach at a community toddler center, is that right?

25 PROSPECTIVE JUROR: Yes, through a community action

1 agency. I'm in one of their daycare centers, for lack of a
2 better.

3 THE COURT: Service on this jury would be for about
4 4 weeks. Would that be a hardship?

5 PROSPECTIVE JUROR: It's kind of difficult. We're
6 doing home visits now and staffing has been tight with the way
7 COVID's been. Currently, at our small site, we have one
8 teacher with symptoms and two others with other stuff. We are
9 a big agency. They have been able to find people to cover. It
10:22 10 all depends. COVID's been really tough.

11 THE COURT: It sounds to me like it would be a real
12 potential for a hardship.

13 PROSPECTIVE JUROR: It could be, yes.

14 THE COURT: I'm going to excuse you from this jury.
15 You have an important job.

16 PROSPECTIVE JUROR: Thank you.

17 THE COURT: Even though jury service is very important
18 and I hope you will do it another time because it's one of the
19 most important civic duties we have, I think this sounds like
10:22 20 this is not the appropriate time for you to be sitting on a
21 jury for 4 weeks. Thank you, Miss Heyl.

22 (Prospective juror exits.)

23 (Prospective juror enters.)

24 THE COURT: Is it Miss LaQuerre?

25 PROSPECTIVE JUROR: No. It's a bad English lesson.

1 Q-U is a qua, but in French, it's a K. It's LaQuerre.

2 THE COURT: Thank you for helping me out.

3 Miss LaQuerre, you're reminded you're under oath. You may
4 remove the mask if you want. You can, but you don't have to.

5 PROSPECTIVE JUROR: I'll remove it to make it easier.

6 THE COURT: Miss LaQuerre, you mentioned that your job
7 is supervising children in a classroom.

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: If you are chosen as a juror in this case,
10:24 10 you wouldn't be able to do that for about 4 weeks. Will that
11 cause you and/or your class a hardship?

12 PROSPECTIVE JUROR: Yeah. I was hasty with answering
13 the questionnaire. It would be a hardship because of COVID
14 where we're back in the building. There's no more remote. The
15 kids have a lapse in learning. We're trying so hard to get
16 everyone up to par. Let's face it. People are still nervous
17 about being in a building and close quarters. We're not 6 feet
18 away. We're 3 feet away. You can't.

19 THE COURT: With kids. Yes.

10:25 20 PROSPECTIVE JUROR: So that will be very difficult.

21 THE COURT: You are an important cog in this whole
22 school. It comes through on the paper.

23 PROSPECTIVE JUROR: No. I wouldn't say that.
24 Everyone's role's important. I'm not way up there by no means.
25 I'm in the special ed department. I support children on

1 Individual Education Plans, so they need you in the classroom.
2 I'm legit in the classroom supporting probably eight students
3 in each class I go through the whole day. I have a schedule.
4 They need your help. Some have issues with attention-deficit.
5 Got to keep them on task. They need that consistency. I role
6 model for them to be.

7 THE COURT: If you were not there for 4 weeks, who
8 would do your job?

9 PROSPECTIVE JUROR: That's the problem. I'm not sure.
10:26 10 Subs right now are nowhere to be found.

11 THE COURT: I'm going to excuse you from this jury
12 because I think you have a very important job.

13 PROSPECTIVE JUROR: Thank you so much. That's nice of
14 you to say that.

15 THE COURT: The fact that we lost a year of education
16 and you're trained in this and these kids need you as opposed
17 to a substitute, it's very important for you to do your civic
18 duty and serve on juries, but I think your job now is more
19 important. I'm going to excuse you from this jury.

10:26 20 PROSPECTIVE JUROR: Thank you so much.

21 THE COURT: I'll try to remember that in the future.

22 (Prospective juror exits.)

23 (Prospective juror enters.)

24 THE COURT: Good morning, Mr. Gately. You may be
25 seated. You are reminded you're under oath. You may take your

1 mask off if you want to, but you don't have to.

2 PROSPECTIVE JUROR: Thank you.

3 THE COURT: Mr. Gately, I understand you're retired.
4 What are you retired from?

5 PROSPECTIVE JUROR: I was working at Trader Joe's.

6 THE COURT: At one point, you had a management or
7 supervisory experience or started your own business.

8 PROSPECTIVE JUROR: I did.

9 THE COURT: Tell me about that.

10:28 10 PROSPECTIVE JUROR: I had a vending business for about
11 20 years.

12 THE COURT: What kind of business?

13 PROSPECTIVE JUROR: Vending machines. My brother and
14 I sold out.

15 THE COURT: You understand how it is to run a
16 business.

17 PROSPECTIVE JUROR: Oh, yeah.

18 THE COURT: Would any of your experiences in any way
19 that you told us about in this questionnaire affect your
10:28 20 ability to be fair and impartial in this case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: So you could decide this case solely based
23 on the evidence that comes into this courtroom and not on the
24 basis of anything you've heard outside of it; is that fair to
25 say?

1 PROSPECTIVE JUROR: Yes, your Honor.

2 THE COURT: Any questions for this potential juror,
3 Mr. Kelly?

4 MR. KELLY: Sure. Quickly. Good morning, sir.
5 Thanks for coming in today. I represent Mr. Aziz here. I
6 noticed one of the things in the questionnaire indicated you
7 had served on a civil trial before, right?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: This case is, of course, a criminal trial
10:28 10 where the proof of standard is beyond a reasonable doubt.
11 You're comfortable with the distinction between the criminal
12 and civil trial?

13 PROSPECTIVE JUROR: Yes, I am.

14 MR. KELLY: Thanks.

15 THE COURT: Mr. Kendall?

16 MR. KENDALL: No questions.

17 THE COURT: Miss Kearney?

18 MS. KEARNEY: Good morning, sir. I wanted to
19 follow-up on one question in the questionnaire. Have you or
10:29 20 anyone you're close to had any experience with the criminal
21 justice system before?

22 PROSPECTIVE JUROR: No.

23 MS. KEARNEY: You personally have never been arrested
24 or charged with a crime?

25 PROSPECTIVE JUROR: I had a couple of DUIs when I was

1 young.

2 THE COURT: Have you had any recent arrests?

3 PROSPECTIVE JUROR: No.

4 MS. KEARNEY: Were you ever charged with assault and
5 battery on a family member?

6 PROSPECTIVE JUROR: Yes, I was.

7 MS. KEARNEY: When was that?

8 PROSPECTIVE JUROR: I would say six or 7 years ago.

9 MS. KEARNEY: Anything about that prior experience
10:29 10 that you felt were you treated unflair at all?

11 PROSPECTIVE JUROR: No.

12 MS. KEARNEY: Anything about that experience that
13 would affect your ability to be fair and impartial in this
14 trial?

15 PROSPECTIVE JUROR: Not at all.

16 MS. KEARNEY: Thank you.

17 THE COURT: Any further questions from counsel?

18 MR. KELLY: No, your Honor.

19 THE COURT: I'll reserve you for the jury. I'll have
10:30 20 you go with Mr. McAlear. If you're called back on another day,
21 please do not do any independent research on this case, looking
22 at the internet. You understand that would be totally
23 inappropriate because you have to decide this case, if you're
24 chosen to be a juror, solely on the basis of the evidence that
25 comes into this courtroom and not on the basis of anything that

1 you learn outside. You understand that?

2 PROSPECTIVE JUROR: I saw it on the news last night
3 and I shut it off.

4 THE COURT: Thank you. Thank you, Mr. Gately.

5 (Prospective juror exits.)

6 THE COURT: Miss Kearney?

7 MS. KEARNEY: Your Honor, the government moves to
8 strike Juror No. 22 for cause. While he did disclose today
9 some of his prior criminal history, he did not disclose it in
10:31 10 the questionnaire, even though that was under oath, and then he
11 also failed to disclose he was arrested as recently as 2018 for
12 assault and battery. So given that, the government moves to
13 strike him.

14 MR. KELLY: We would oppose that, your Honor. First
15 of all, when they're filling out these questionnaires, not all
16 of them have Harvard Ph.D. degrees. It's a lot of time
17 pressure to fill them out. He was very candid when asked about
18 the question. These CWOFS are not convictions. He seemed open
19 and acknowledged it. He seemed like a fair juror. I don't
10:31 20 think it rises to the level of excuse for cause. They may not
21 like this juror and may strike him later, but this is not
22 cause.

23 THE COURT: Mr. Kendall?

24 MR. KENDALL: I agree with Mr. Kelly. People come
25 from all walks of life. People don't work with paper and

1 respond to this paper as what others might do. What I saw most
2 important is he admitted all the questions she asked him,
3 acknowledged it, and then said he didn't think he was treated
4 unfairly. I thought that had a real sense of responsibility
5 and sort of candor about it. He didn't say it was this or
6 that. He wasn't looking to make excuses. He said the
7 system -- he said he was not treated unfairly. I think that's
8 probably the single most important point we need to do when
9 evaluating him.

10:32 10 MS. KEARNEY: Your Honor, two follow-up points. I
11 began by asking the juror whether he or anyone he knew had ever
12 been arrested or involved in the criminal justice system and he
13 said no. It was only when I prompted him with specific past
14 arrests that he became candid with the Court.

15 On top of that, he does have a continuance without a
16 finding, which, for assault and battery, which is a felony, as
17 recently as 2008, under the sentencing guidelines those are
18 treated as convictions with the Probation Office. I'm also
19 familiar with the Sampson case Judge Sorokin was dismissing
10:33 20 jurors consistent with the jury office's policy that CWOs were
21 treated as felony convictions.

22 MR. KELLY: Just briefly, when the government goes and
23 files those 851 enhancements based on prior convictions for
24 drugs, they can't use CWOs. It's not the law. These CWOs
25 under the state system, as I've learned from my esteemed

1 counsel, Mr. Sheketoff, they're not convictions. He was
2 candid. Courtrooms can make people nervous. He was very
3 up-front. We don't think this rises to the level of cause,
4 your Honor.

5 THE COURT: I agree with defendants. I'm not going to
6 excuse him for cause.

7 Call the next potential juror.

8 (Prospective juror enters.)

9 THE COURT: Good morning, Miss Nelson. You're
10:34 10 reminded you're still under oath. You may remove your mask if
11 you want to. Please pull the microphone so we can hear you.

12 PROSPECTIVE JUROR: Absolutely.

13 THE COURT: I understand that you are a caretaker for
14 your mother who is ill. Would 4 weeks on a jury cause you
15 hardship to serve on this jury?

16 PROSPECTIVE JUROR: Yes. She was diagnosed with ALS.

17 THE COURT: A very, very serious disease.

18 PROSPECTIVE JUROR: It's awful. Her husband is
19 15 years older than she is. He turns 83 tomorrow.

10:35 20 THE COURT: Sort of a young guy.

21 PROSPECTIVE JUROR: I just moved them from South
22 Carolina to Quincy. She lives in Marina Bay, which is amazing.
23 I live in Southie here. It's only 10 minutes. I've just been
24 there every day. We're getting them some home healthcare but
25 literally the first person is coming today for hours. I was

1 hoping to be there to meet and help.

2 THE COURT: It sounds to me like this would be a
3 hardship for you to serve on this jury.

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: I'm going to excuse you. You have very
6 serious and important duties. I wish you good luck. I hope at
7 a later time you will be willing to serve on a jury because
8 it's a very important job.

9 PROSPECTIVE JUROR: I'm very interested in it, to be
10:35 10 honest. It's my mom.

11 THE COURT: I think you have more pressing duties at
12 this point. Thank you, Miss Nelson.

13 (Prospective juror exits.)

14 MS. KEARNEY: Your Honor, before we begin with the
15 next juror, I just wanted to tell the Court that he has a prior
16 criminal history that he did not disclose in his questionnaire.

17 THE COURT: This is Mr. Diaz?

18 MS. KEARNEY: Yes, Juror 27. He was charged in 2003
19 for use without authority. That was a CWOFF. And destruction
10:36 20 of property, from the same date, that was also a CWOFF. He did
21 not disclose it on his questionnaire. If it would be possible
22 for the Court to inquire about it, because I think it's awkward
23 for me to do so.

24 THE COURT: Fair enough. Mr. Kelly.

25 MR. KELLY: 2 points. A, the CWOFF is not a

1 conviction. B, he referenced something more serious about a
2 felony. I assume that's a family member because it would have
3 been on a rap sheet. It's not like he was hiding his
4 connection to law enforcement. Attempted murder, a relative or
5 friend of the family or someone was arrested for.

6 THE COURT: So what is it that counsel is asking of
7 the Court? Miss Kearney would like me to inquire about the
8 someone convicted of attempted murder matter, is that right?

9 MS. KEARNEY: In his own personal record, your Honor,
10:37 10 that he did not disclose in the questionnaire.

11 THE COURT: What was that record again?

12 MS. KEARNEY: He has two convictions, both related to
13 the same incident in 2003, one for use without authority and
14 one for malicious destruction of property.

15 THE COURT: What was the first one?

16 MS. KEARNEY: Use without authority, using someone's
17 car.

18 THE COURT: A vehicle?

19 MS. KEARNEY: Yes.

10:37 20 MR. KELLY: These are CWOFS. If they want to ask
21 difficult questions, they should ask the questions. These are
22 CWOFS, not convictions.

23 MS. KEARNEY: If this juror ends up on the jury, it's
24 awkward to have the government question him about his criminal
25 history when he has not already disclosed on his questionnaire.

1 THE COURT: Mr. Kendall?

2 MR. KENDALL: You won't know it by his name but my
3 client is Hispanic. I don't want people being thrown off and
4 have an unrepresentative jury unless there's really good
5 grounds.

6 THE COURT: Call the potential juror.

7 (Prospective juror enters.)

8 THE COURT: Good morning, Mr. Diaz. Please have a
9 seat. You're reminded that you remain under oath. You may
10:39 10 remove the mask if you wish, but you don't have to. Please
11 pull that microphone close enough so we can hear.

12 Mr. Diaz, I understand in response to one of the
13 questions you mentioned that someone you know was convicted of
14 attempted murder or assault about 10 years ago.

15 PROSPECTIVE JUROR: Correct.

16 THE COURT: Can you tell me about that.

17 PROSPECTIVE JUROR: It's a cousin of mine. I don't
18 remember what the actual charge is because it was so long ago.
19 That's what it was, one or the other.

10:39 20 THE COURT: Were you in any way involved in that
21 prosecution?

22 PROSPECTIVE JUROR: No. He's just a relative. It had
23 nothing to do with me.

24 THE COURT: However, apparently, there is a record
25 that you were charged back in 2003, which was continued without

1 a finding, but involved a conviction involving use without
2 authority of a vehicle?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Would you tell me about that and why
5 didn't you bring that up on your questionnaire?

6 PROSPECTIVE JUROR: Honestly, I completely forgot
7 about that. That happened when I was a teenager. I forgot.

8 THE COURT: Would you tell me about what it was.

9 PROSPECTIVE JUROR: I was just in a stolen car. We
10:40 10 were pulled over.

11 THE COURT: Was there another charge in addition to
12 the use without authority?

13 PROSPECTIVE JUROR: Not that I recall. Honestly, I
14 don't remember.

15 THE COURT: What was the ultimate result of that case?

16 PROSPECTIVE JUROR: Community service.

17 THE COURT: How much community service, if you
18 remember?

19 PROSPECTIVE JUROR: It was one day, I believe.

10:40 20 THE COURT: You were not imprisoned at all?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Is there anything on that questionnaire
23 that would affect your ability to be fair and impartial in this
24 case?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Do you believe that you could be fair and
2 impartial and determine this case solely on the basis of the
3 evidence that comes into this courtroom and not on the basis of
4 anything that's happened outside of the courtroom?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Any questions for this potential juror?
7 Mr. Kelly?

8 MR. KELLY: Just briefly. Thanks for coming in. I
9 represent Mr. Aziz here. A lot of the case will involve
10:41 10 college sports. Do you follow college sports at all?

11 PROSPECTIVE JUROR: Not really, no.

12 MR. KELLY: Thanks. Nothing further.

13 THE COURT: Mr. Kendall?

14 MR. KENDALL: Thank you for coming in. No questions,
15 your Honor.

16 THE COURT: Miss Kearney?

17 MS. KEARNEY: Good morning, Mr. Diaz. I wanted to
18 follow-up on some of the questions the judge asked you. Was
19 there anything about your experience in the criminal justice
10:41 20 system or your cousin's experience that you felt you or your
21 cousin were treated unfairly?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Thank you, Mr. Diaz. You may go with
24 Mr. McAlear to the so-called reserve room. If you are called
25 back, you are reminded, please do not try to do any independent

1 research on this case. That would be inappropriate. If and
2 when you are chosen as a juror in the case, you're going to
3 decide the case based solely on the basis of the evidence that
4 comes into this courtroom and not on the basis of anything
5 outside. So don't do any independent research. Okay?

6 PROSPECTIVE JUROR: Sure.

7 THE COURT: Thank you, Mr. Diaz.

8 (Prospective juror exits.)

9 (Prospective juror enters.)

10:43 10 THE COURT: Good morning, Mr. Williams. Please be
11 seated. You're reminded that you remain under oath. You may
12 remove the mask if you want to, but you don't have to.

13 PROSPECTIVE JUROR: Sure.

14 THE COURT: Mr. Williams, I understand that you
15 actually look after your children. Your wife works full-time,
16 is that correct?

17 PROSPECTIVE JUROR: Yes. She works Monday through
18 Thursday and Saturdays. She usually works in the evenings or
19 afternoon/evenings. She'll handle morning stuff. I get to
10:43 20 work from home Monday through Thursday and go to the office on
21 Fridays. I get to either pick them up from the bus stop or if
22 she's busy, I can drive them to school.

23 THE COURT: So it's a dual effort?

24 PROSPECTIVE JUROR: It is. It's all hands on deck at
25 all times.

1 THE COURT: Was there anything in the questionnaire
2 that gave you pause as to your ability to be fair and impartial
3 in this case?

4 PROSPECTIVE JUROR: No. Honestly, I don't even know
5 what this case is about. I know you said fraud.

6 THE COURT: You've heard about the case generally but
7 not this particular part of it?

8 PROSPECTIVE JUROR: No. I've not heard about the case
9 at all.

10:44 10 THE COURT: Is there any reason that you would not be
11 able to be fair and impartial in this case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Any questions for this potential juror?
14 Mr. Kelly?

15 MR. KELLY: Good morning. I'm Mr. Kelly. I represent
16 Mr. Aziz in this matter. Thank you for coming in today. I
17 guess the question is about the schedule really. This is a --
18 we're estimating it's a 4-week trial. Sometimes things go
19 shorter, hopefully. Would a 4-week commitment in this federal
10:45 20 court on this matter be problematic to your home situation to
21 your children?

22 PROSPECTIVE JUROR: Somewhat. I don't have a lot of
23 people to help. My mom lives nearby but she works also. She's
24 covering for me today. She's going to work from my house.
25 She's going to get my daughter off to the bus today while I'm

1 here. It's not impossible but it would be hard to do.

2 THE COURT: Mr. Kendall?

3 MR. KENDALL: Good morning. No questions.

4 THE COURT: Miss Kearney?

5 MS. KEARNEY: No questions.

6 THE COURT: Maybe I should follow-up on that,

7 Mr. Williams. We don't want to cause you hardship. We know

8 that jury duty does cause inconvenience, sometimes serious

9 inconvenience, but there's a difference between inconvenience

10:45 10 and hardship. Sometimes it's a very close call. I can't make

11 that call. Only you can. I don't want to cause hardship in

12 your family or your employment. You tell me. Is it going to

13 be a serious inconvenience for three or 4 weeks or a real

14 hardship?

15 PROSPECTIVE JUROR: I think it would be a hardship.

16 I'd have to get someone to essentially make sure they were at

17 my house to get my daughter off the bus, and I don't know if --

18 depending on when the trial started, to hire someone to be a

19 nanny for a month.

10:46 20 THE COURT: It's going to be a hardship. I'm going to

21 excuse you from this jury. I hope you will come at some time

22 when it's less inconvenient for you and serve as a juror. I

23 think this is not the right case.

24 PROSPECTIVE JUROR: Okay. Thank you.

25 THE COURT: Thank you, Mr. Williams. You're excused.

1 (Prospective juror exits.)

2 (Prospective juror enters.)

3 THE COURT: Good morning, Miss Elwell. Please be
4 seated. You're reminded that you remain under oath. You may
5 remove your mask if you want to, but you don't have to.

6 PROSPECTIVE JUROR: Okay.

7 THE COURT: Miss Elwell, you mentioned that you need
8 to work full-time. If you are chosen for this jury, it will be
9 about a 4-week trial. Is that going to cause you financial
10:47 10 hardship?

11 PROSPECTIVE JUROR: Yes, it will, unfortunately.

12 THE COURT: I'm not going to cause you financial
13 hardship. I'm going to excuse you from this jury. Jury duty
14 is a very important civic duty. I hope at some stage you'll be
15 willing to do so. I think this case, being as long as it's
16 going to be, would cause you financial hardship and I don't
17 think we ought to do it.

18 PROSPECTIVE JUROR: I agree. I wish it was a
19 different time.

10:48 20 THE COURT: Thank you, Miss Elwell. You're excused.

21 (Prospective juror exits.)

22 THE COURT: Counsel, we're going to take a break in
23 about 10 minutes. We'll go to about 11 and then take a
24 15-minute recess.

25 (Prospective juror enters.)

1 THE COURT: Good morning, Miss Hyde.

2 PROSPECTIVE JUROR: Good morning.

3 THE COURT: You may be seated. You are reminded
4 you're under oath. You may remove your mask if you want to,
5 but you don't have to.

6 Miss Hyde, you planned a 2-week vacation in October,
7 is that right?

8 PROSPECTIVE JUROR: Correct. My brother is getting
9 married.

10:49 10 THE COURT: This case is going to go beyond that. I
11 don't want to interfere in an important family event. I will
12 excuse you from this trial. That doesn't excuse you from all
13 trials. I hope at a less inconvenient time you will serve as a
14 juror. It's a very important civic duty. I think this case is
15 going to go beyond the time when you have a commitment. You're
16 excused.

17 PROSPECTIVE JUROR: Great. Thank you.

18 (Prospective juror exits.)

19 (Prospective juror enters.)

10:50 20 THE COURT: Good morning, Mr. Eddy. Please be seated.
21 You are reminded that you remain under oath. You may remove
22 the mask if you want to, but you don't have to. Mr. Eddy,
23 would 4 weeks on this trial cause you a hardship financially or
24 otherwise?

25 PROSPECTIVE JUROR: I don't believe so.

1 THE COURT: You mentioned that you or someone that you
2 are close to is employed by a police department. Would the
3 fact that you have a connection with law enforcement in any way
4 affect your ability to be fair and impartial in this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Can you decide this case solely on the
7 basis of the evidence that comes into this courtroom and not on
8 the basis of any outside influence or anything else that's
9 happened in your life?

10:51 10 PROSPECTIVE JUROR: I believe so. I do think one of
11 the questions I answered on the questionnaire was about a
12 general perception of people who may have certain advantages in
13 aspects of life in terms of college admission. That is
14 something that's based on life experience in my mind, but I'll
15 certainly do my best.

16 THE COURT: The point is that you haven't heard any
17 evidence about these two particular defendants.

18 PROSPECTIVE JUROR: Correct.

19 THE COURT: They start out absolutely innocent. The
10:51 20 government is required to prove beyond a reasonable doubt the
21 charges that they've made against them. Whatever your general
22 concept of people of wealth or whatever doesn't count in this
23 case because these individuals are entitled to be judged on the
24 facts pertaining to them. Can you tell me that you can decide
25 this case solely on the basis of the evidence that comes into

1 this courtroom and not on any preconceived ideas about college
2 admission?

3 PROSPECTIVE JUROR: I believe that I could.

4 THE COURT: Mr. Kelly, any questions?

5 MR. KELLY: Sure. Good morning, Brian Kelly,
6 representing Mr. Aziz here.

7 A follow-up from the Court's question there. You
8 understand this is a criminal case with specific charges and
9 deciding if the wealthy people have more advantages than
10:52 10 others. That's not the issue, whether that's fair or not.
11 You're comfortable serving in a case like this?

12 PROSPECTIVE JUROR: Yes. I would be.

13 THE COURT: I noticed you -- I got confused about the
14 Georgetown football answer there. There's a lot of sports
15 issues in this case. I didn't even know Georgetown had a
16 football team.

17 PROSPECTIVE JUROR: They do. When I was there, it was
18 Division 3. Now it's 1AA. I was a walk-on.

19 MR. KELLY: What did you play?

10:53 20 PROSPECTIVE JUROR: I played guard.

21 MR. KELLY: I assume you follow Georgetown basketball
22 team, a little more prominent?

23 PROSPECTIVE JUROR: Yes. They would be the dominant
24 sport.

25 MR. KELLY: Are you a college basketball fan in

1 general?

2 PROSPECTIVE JUROR: Other than following what they do
3 by and large, I would say no.

4 MR. KELLY: Nothing about that would prevent you from
5 being fair to all sides in this case?

6 PROSPECTIVE JUROR: I don't believe so, no. It would
7 not.

8 MR. KELLY: I notice you had watched the Netflix. Is
9 that what you referenced in here?

10:53 10 PROSPECTIVE JUROR: Yes. I believe they called it a
11 documentary. I'm not sure why they did because I believe they
12 were actors playing some of the roles in that. It was probably
13 more of a film than documentary.

14 MR. KELLY: Anything about that that would affect your
15 ability to be fair here?

16 PROSPECTIVE JUROR: I mean, it's the media. You've
17 got to take it with a grain of salt. The performance created
18 by that particular show was that something unusual was going
19 on, I would say.

10:54 20 MR. KELLY: Understanding the media's not always
21 accurate, you're fine looking at this in a fair and evenhanded
22 fashion?

23 PROSPECTIVE JUROR: I believe I could do that.

24 MR. KELLY: Thanks.

25 THE COURT: Mr. Kendall?

1 MR. KENDALL: Yes. Good morning. I'm Mike Kendall.
2 I represent John Wilson.

3 I wanted to ask a couple of questions about the
4 Netflix documentary. I appreciate you noting that it was not a
5 real documentary and was with actors. What did you think when
6 you saw it though? What was your reaction?

7 PROSPECTIVE JUROR: I think certainly the person at
8 the center of it in terms of the person who was organizing
9 whatever was happening, he was on the list on the
10:55 10 questionnaire, I'm trying to think of the right word to use.

11 MR. KENDALL: Mr. Singer?

12 PROSPECTIVE JUROR: Yes. Mr. Singer was not
13 completely above board in what he was doing. Again, it's a
14 movie more than a documentary. I have to take that into
15 consideration.

16 MR. KENDALL: If you saw evidence in this case that
17 showed that Netflix documentary simply was made up Hollywood
18 stuff, is that something you could separate in your mind?

19 PROSPECTIVE JUROR: I believe yes. The evidence is
10:55 20 certainly more important than what was portrayed in a movie.

21 MR. KENDALL: So it hasn't left you with any
22 particular feeling or predisposition about the defendants in
23 this case?

24 PROSPECTIVE JUROR: Walking away from the movie
25 certainly one particular feeling, as we just discussed, but you

1 obviously have to look at the evidence and consider that.

2 MR. KENDALL: You understand that the issue here is
3 whether the defendants have broken a law and that the judge
4 will instruct you on the law?

5 PROSPECTIVE JUROR: Yes.

6 MR. KENDALL: And you have to follow the judge's
7 instructions. So even if you have a personal view that
8 something's not right or not fair or not good, he's the boss.
9 He sets the law, even if you have views of fairness that may be
10:56 10 different. It may be a different issue than what you're being
11 instructed on.

12 PROSPECTIVE JUROR: I agree with that.

13 THE COURT: Miss Kearney?

14 MS. KEARNEY: Good morning. No questions, your Honor.

15 THE COURT: Thank you, Mr. Eddy. You're going to be
16 in reserve. Mr. McAlear will tell where you to go. If you're
17 called back to serve as a juror, then you will decide this case
18 solely on the basis of evidence that comes into this courtroom.
19 Do not do any independent research. Any exploring on the
10:57 20 internet would be inappropriate. You understand that?

21 PROSPECTIVE JUROR: Understood.

22 THE COURT: Thank you, Mr. Eddy.

23 (Prospective juror exits.)

24 MR. KENDALL: Your Honor, before we bring somebody in?

25 THE COURT: Yes. Hold the juror.

1 MR. KENDALL: He is a responsible gentleman and was
2 trying to be helpful as he could be. I appreciate that. It's
3 the Netflix documentary. The issue with the Netflix
4 documentary is it didn't talk about this case but Mr. Wilson
5 was one of the main people portrayed in that. I think if the
6 government is forced to give an answer, they'll even agree
7 there were false statements made about Mr. Wilson.

8 For example, they took the actions of a man named
9 Sloane whose son was a false water polo player and attributed
10:58 10 them to Mr. Wilson. It wasn't even that it was pretrial
11 publicity. It was false pretrial publicity and he was a major
12 character in that documentary. It's one thing to say I saw a
13 newspaper article. It's another thing to say I saw a movie
14 with false accusations.

15 As you may know, Mr. Wilson filed a case about that.
16 It's now in state court. It was a false representation of the
17 evidence in this case, indisputably. The accusation was his
18 son did play water polo and falsified a profile with documents
19 and stuff. That is not the case. His son was a real water
10:58 20 polo player. The pictures were of his son. They took the
21 facts of Mr. Sloane and they put them under the name Wilson in
22 the documentary. So we are very concerned about anybody who's
23 seen that documentary sitting on the jury. We'd ask that he be
24 struck for cause.

25 THE COURT: Miss Kearney?

1 MS. KEARNEY: The prospective juror was forthcoming
2 and said he had seen the Netflix documentary. He also said you
3 have to take it with a grain of salt. He volunteered it was
4 more of a film than documentary. It sounded like he was going
5 to base on the evidence.

6 THE COURT: I'm not going to dismiss this juror for
7 cause. I believe the public is becoming more sophisticated
8 with respect to media reports. The media is being questioned
9 more and more for their truthfulness. I think he comes across
10:59 10 as an intelligent person that can differentiate between what is
11 fact and what is fiction. The facts will come out in this
12 case. He has answered the questions, I believe, forthrightly.
13 I'm not going to excuse him for cause.

14 (Prospective juror enters.)

15 THE COURT: Good morning, Miss Arsenault. Is that how
16 you pronounce it?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Miss Arsenault, please be seated. You're
19 reminded you are under oath. You may remove the mask if you
11:00 20 want to, but you don't have to.

21 PROSPECTIVE JUROR: Relief.

22 THE COURT: Miss Arsenault, is there any reason why
23 you can't sit on this jury and be fair and impartial?

24 PROSPECTIVE JUROR: I don't think so.

25 THE COURT: You're a medical technologist.

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Will four weeks absent from that job cause
3 you financial hardship?

4 PROSPECTIVE JUROR: No, because I think they make up
5 the difference.

6 THE COURT: They're supposed to. Sometimes you have a
7 hard time having them do that. You're not concerned about
8 that. Is that fair to say?

9 PROSPECTIVE JUROR: Yeah. Not at this present time,
11:01 10 no.

11 THE COURT: Were there any questions in the
12 questionnaire that would cause you to not be fair and impartial
13 in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Mr. Kelly, any questions for this
16 potential juror?

17 MR. KELLY: No. I represent Mr. Aziz. Thanks for
18 coming in.

19 THE COURT: Mr. Kendall?

11:01 20 MR. KENDALL: Yes. Good morning. My name's Mike
21 Kendall. I represent John Wilson. Thank you for coming in.

22 Paragraph 39, you answered yes for if you'd seen some
23 of the press coverage of this general matter called the Varsity
24 Blues.

25 PROSPECTIVE JUROR: Yes.

1 MR. KENDALL: Can you describe in your own words.

2 MS. KEARNEY: It was one of those questions I put no
3 first and then scratched out. First I thought, no, I don't
4 know anything about this. Then I thought, is this part of the
5 ongoing thing that started off with those two actresses and the
6 husband that paid for their daughters to go to school?

7 MR. KENDALL: And what was your thought when you had
8 that idea?

9 PROSPECTIVE JUROR: I thought maybe I do know a little
10 about this but all I know is what I saw on the news briefly.

11 MR. KENDALL: Did you have any views about what you
12 saw? Did it bother you?

13 PROSPECTIVE JUROR: I, first of all, thought these
14 parents are stupid to pay for their kids to go to college. I
15 told my kids they needed to pay.

16 MR. KENDALL: Did it bother you that they did it? Did
17 you think it was unfair or wrong?

18 PROSPECTIVE JUROR: It bothered me a little because
19 I'm thinking I would never have the money if I wanted to do it
11:03 20 for my kids. I didn't have the money to pay for their college
21 to begin with. I paid a little. I only had one out of three
22 that went to college. She went to UMass Lowell. I told them
23 if you went to an inexpensive school, if I had some extra
24 money, I'd help you. I did pay half of each semester while she
25 worked part-time and took out student loans. It did make me a

1 little agitated.

2 MR. KENDALL: Does that give you any particular
3 thoughts about people who have a lot of money, a lot of
4 substantial resources, and if they spend it in a way that seems
5 different or sort of even wasteful? Do you have any thoughts
6 about that?

7 PROSPECTIVE JUROR: I would think the more money you
8 have, the more you want. I think they just tend to waste it
9 and just do whatever.

11:04 10 MR. KENDALL: Thank you for coming in. I appreciate
11 your candor.

12 THE COURT: Miss Kearney?

13 MS. KEARNEY: Good morning, Miss Arsenault. Is there
14 anything about the information you've seen about the news
15 reports that would cause you to be not impartial and fair in
16 evaluating the evidence?

17 PROSPECTIVE JUROR: I don't think so. I'd like to
18 think I look at each person as a separate entity, just like you
19 look at any child as a separate thing too.

11:04 20 MS. KEARNEY: Thank you very much.

21 THE COURT: The question, Miss Arsenault, is whether
22 you can be fair and impartial in this case and decide it solely
23 on the basis of the evidence that comes into this courtroom and
24 not on the basis of anything you've read or heard before the
25 case.

1 PROSPECTIVE JUROR: I think I could.

2 THE COURT: Thank you. I'm going to have you go with
3 Mr. McAlear to the reserve room. You may or may not be called
4 back to sit as a juror. In the meantime, please do not do any
5 independent research or go on to the internet. That would be
6 inappropriate. The case is going to be determined on the basis
7 of evidence. Thank you.

8 (Prospective juror exits.)

9 THE COURT: Counsel, we're going to be in recess for
11:05 10 15 minutes. I think we've made progress. We'll continue at
11 about 11:20.

12 MR. KENDALL: Out of curiosity, your Honor, how many
13 have we accepted so far?

14 THE COURT: I was going to count that up myself.

15 MR. FRANK: I think it's ten, your Honor.

16 THE COURT: Ten. I agree with the government's
17 number.

18 MR. KENDALL: We're looking for 36?

19 THE COURT: More like 40. I want to err on the side
11:05 20 of too many.

21 (Recess taken 11:05 a.m. to 11:25 a.m.)

22 THE COURT: Good morning again, counsel. I have now
23 had a chance to read the proposed instruction that I'm going to
24 ask Mr. McAlear to give to all reserved. It has a strange
25 likeness. I think it comes right out of one of my charges,

1 which, of course, is very appealing. I think it is
2 appropriate. I don't think there's anybody who has an
3 objection. Is that correct, Mr. Kelly?

4 MR. KELLY: No. We found it very appealing as well,
5 your Honor.

6 THE COURT: Mr. Kendall?

7 MR. KENDALL: Equally so.

8 THE COURT: I'm going to ask Mr. McAlear to give each
9 person in the reserve list this instruction. I'll tell each
10 one that they will get a written request.

11 Is there anything else that needs to come to my
12 attention before we call the next potential juror?

13 All right. We'll call the next one.

14 (Prospective juror enters.)

15 THE COURT: Good morning, Mr. Connaughton. Is that
16 how you pronounce it?

17 PROSPECTIVE JUROR: That's correct.

18 THE COURT: Mr. Connaughton, please be seated. You're
19 reminded that you remain under oath. You may remove the mask
11:26 20 if you want to, but you don't have to.

21 Mr. Connaughton, you are interviewing for a new job
22 opportunity, is that correct?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: I take it then jury duty at this point for
25 4 weeks would cause you a hardship?

1 PROSPECTIVE JUROR: I would think so.

2 THE COURT: I don't want to cause you, especially a
3 financial hardship, if you're looking for a new job or you're
4 just about to have a new job. I think that it would not be
5 appropriate for you to sit on this jury, unless I'm missing
6 something. Do you have any feelings about it one way or the
7 other?

8 PROSPECTIVE JUROR: That would be very helpful.

9 THE COURT: So I'm going to excuse you,
10 Mr. Connaughton. That doesn't excuse you from all jury duty.
11 It's a very important civic responsibility that you have to
12 serve on juries. I hope once you get settled and get that new
13 job, you will be able to serve as a juror. Good luck to you in
14 your efforts. Thank you. You're excused.

15 (Prospective juror exits.)

16 (Prospective juror enters.)

17 THE COURT: Good morning, Mr. Rodriguez.

18 PROSPECTIVE JUROR: Good morning, your Honor.

19 THE COURT: Please be seated. You're reminded that
11:29 20 you remain under oath. You may remove your mask if you want
21 to, but you don't have to.

22 PROSPECTIVE JUROR: Thank you.

23 THE COURT: Mr. Rodriguez, I understand that you are
24 the sole provider for an elderly person is that, right?

25 PROSPECTIVE JUROR: That is correct. That would be my

1 wife.

2 THE COURT: I take it that 4 weeks on a jury would
3 cause you some severe hardship, is that fair?

4 PROSPECTIVE JUROR: It would, economically as well as
5 just basic day-to-day housekeeping care and chores.

6 THE COURT: I'm not going to do that. I'm not going
7 to cause you that economic hardship. I think you have an
8 important job taking care of somebody, therefore I'm going to
9 excuse you from this jury. That does not excuse you from all
11:30 10 jury duty. I hope at one point you will be able to exercise
11 your civic duty and serve on a jury. Okay?

12 PROSPECTIVE JUROR: Thank you, your Honor.

13 (Prospective juror exits.)

14 (Prospective juror enters.)

15 THE COURT: Good morning, Miss Lacorazza. Please be
16 seated. Understand that you remain under oath. You may remove
17 the mask if you want to, but you don't have to.

18 Miss Lacorazza, was there anything on the
19 questionnaire that gave you pause as to whether you could be
11:31 20 fair and impartial in this case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Do you think you can decide this case
23 solely based on the evidence that comes into this courtroom and
24 not on the basis of anything you've heard outside the Court
25 room?

1 PROSPECTIVE JUROR: Yes, I do.

2 THE COURT: I understand you have a relation to some
3 SWAT, police.

4 PROSPECTIVE JUROR: On my cousin's side, through
5 marriage.

6 THE COURT: Would that relationship with law
7 enforcement cause you to be impartial or unfair in this case?

8 PROSPECTIVE JUROR: I don't think so.

9 THE COURT: Mr. Kelly?

11:32 10 MR. KELLY: Good morning, whatever it is. I represent
11 Mr. Aziz. Thank you for coming in.

12 With respect to that question about the FBI, what's
13 the name of your cousin or the agent who is in your family?

14 PROSPECTIVE JUROR: Bryce Montoya.

15 MR. KELLY: Nothing with respect to that would affect
16 your ability to be unfair in this case?

17 PROSPECTIVE JUROR: No.

18 MR. KELLY: Thank you very much.

19 THE COURT: Mr. Kendall?

11:32 20 MR. KENDALL: One moment, your Honor. No questions.

21 THE COURT: Miss Kearney?

22 MS. KEARNEY: Good morning, Miss Lacorazza. No
23 questions.

24 THE COURT: Thank you, Miss Lacorazza. I'm going to
25 ask you to go into the reserve room. That means you may or may

1 not be called back. I want to caution you not to do any
2 independent research on this case because if you are called to
3 sit as a juror, you will decide this case solely on the basis
4 of the evidence that comes into this courtroom and not any
5 independent research. You're going to have a little paragraph
6 of instructions to follow while you wait to be called. Okay?

7 PROSPECTIVE JUROR: Thank you.

8 (Prospective juror exits.)

9 (Prospective juror enters.)

11:33 10 THE COURT: Good morning, Mr. Wakelin. Is that how
11 you pronounce your name?

12 PROSPECTIVE JUROR: It is, sir. Thank you.

13 THE COURT: Good morning, Mr. Wakelin. You may be
14 seated. You are reminded you're under oath. You may remove
15 the mask if you wish.

16 Mr. Wakelin, the only question from your questionnaire
17 is I note you were a college athlete at Dennison University, is
18 that right?

19 PROSPECTIVE JUROR: That is correct.

11:34 20 THE COURT: This case involves allegations that allege
21 that some of the defendants falsely identified as athletes.
22 Will that in any way affect your ability to be fair and
23 impartial in this case?

24 PROSPECTIVE JUROR: No, it will not.

25 THE COURT: You could decide this, say, case solely

1 based on the evidence that's going to come into this courtroom
2 and not on the basis of anything outside or what you've heard
3 about?

4 PROSPECTIVE JUROR: So what I would say to you, sir,
5 is that for the last 30 years I've followed the media and
6 entertainment business for an investment management firm here
7 in Boston. I'm very familiar with Lori Loughlin and Felicity
8 Huffman. I know that there's a fixer in California that was
9 involved in an admissions scandal of some variety. I have not
11:35 10 read anything on that. Given the fact that I followed the
11 industry for a long period of time, I am familiar with some of
12 the things that have happened with respect to not only the
13 University of Southern California but also Harvard. I have a
14 son who just graduated from Georgetown University, who was a
15 freshman, I believe, when there was an individual at the school
16 who was impacted by that as well. I have tangential
17 information with respect to what might be raised here.

18 THE COURT: Fair enough. The question is, however,
19 can you decide this case based solely on the evidence that
11:36 20 comes into this courtroom and not on the basis of what you've
21 heard tangentially about other defendants in this case?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Any questions, Mr. Kelly.

24 MR. KELLY: Sure. Briefly. Good morning, Brian Kelly
25 for Mr. Aziz here. A few follow-up questions. Have you

1 watched any TV shows or films about anything related to this?

2 PROSPECTIVE JUROR: I have not.

3 MR. KELLY: Putting aside what the actresses in
4 California may or may not have done, can you treat my client
5 here separately from them in your mind?

6 PROSPECTIVE JUROR: Yes, I could.

7 MR. KELLY: Nothing about your sporting experience at
8 Dennison would affect your outlook on this case?

9 PROSPECTIVE JUROR: I -- no. I don't feel that
11:37 10 because athletic endeavors were used in order to gain admission
11 into college would be impacted by my being a collegiate
12 athlete.

13 MR. KELLY: D3, Dennison?

14 PROSPECTIVE JUROR: Dennison is D3, yes.

15 MR. KELLY: What was your position there?

16 PROSPECTIVE JUROR: I played third base.

17 MR. KELLY: Are you a college sports fan at all?

18 PROSPECTIVE JUROR: I am a college sports fan, yes.

19 MR. KELLY: Which sports do you follow?

11:37 20 PROSPECTIVE JUROR: I follow all the large ones. In
21 addition to my son who was at Georgetown, my other son, who is
22 his twin brother, was at Notre Dame. We are active collegiate
23 athletic followers, I would say.

24 MR. KELLY: Nothing further. Thanks again coming in.

25 THE COURT: Mr. Kendall.

1 MR. KENDALL: Good afternoon. Still morning. Good
2 morning. I'm Mike Kendall. I represent John Wilson. Couple
3 things I wanted to follow-up on.

4 You mentioned when your son was a freshman at
5 Georgetown, one of the kids was effected. Can you tell us your
6 impression of what happened and your memory about it and your
7 thoughts about it.

8 PROSPECTIVE JUROR: I don't know specifics of how this
9 particular child was admitted into Georgetown. I just know
11:38 10 that they were accused of being admitted on a preferential
11 basis. I can't recall whether or not it was the sailing coach
12 or the way that this particular person ended up at Georgetown,
13 but there was some question as to their viability,
14 qualifications, with respect to gaining admittance there.

15 My son actually did not know the person intimately but
16 knew of the person. I know they had some challenges once the
17 public information came out.

18 MR. KENDALL: Thanks. Appreciate that.

19 The other thing I wanted to raise is one issue in this
11:39 20 case will be that people make donations to schools and the
21 schools will give preferential treatment to their relative for
22 a donation, not for a fraud or criminal act. Does that
23 practice bother you? Do you have any views on that practice?

24 PROSPECTIVE JUROR: My brother-in-law went to Harvard
25 University. His four children also went to Harvard University.

1 My children did not go to Harvard University. I don't find the
2 practice of large donations to be untoured, if you would,
3 however, what I would suggest is that there is a certain level
4 of privilege with respect to a person's ability to purchase
5 their way into a situation that they might not be academically
6 qualified for that I think gets to the entire basis of
7 privilege in this country.

8 MR. KENDALL: I appreciate your candor. I wanted to
9 ask you a couple more questions on that.

11:40 10 PROSPECTIVE JUROR: Certainly.

11 MR. KENDALL: How much does that bother you?

12 PROSPECTIVE JUROR: As I mentioned, it just is a
13 reflection of privilege. I don't hold it against people for
14 taking advantage in every way that they can on a legal basis.
15 It still is a privilege problem with the fabric of, I would
16 say, the United States.

17 MR. KENDALL: If the issue is that people did take
18 advantage of that, making a donation could get their child a
19 boost to get into college, a significant boost, and they did it
11:41 20 purposefully and intentionally but not fraudulently, is that
21 something you realize is legal and it's fine to be done and you
22 can't judge a person for that?

23 PROSPECTIVE JUROR: Like I said, if it's legal and it
24 appears to be legal, then there's nothing wrong other than
25 people using their privilege to their advantage. I wouldn't

1 necessarily say that I would hold it against someone for
2 pursuing any avenues for their children's education.

3 MR. KENDALL: I appreciate your candor. Thanks.

4 THE COURT: Miss Kearney?

5 MS. KEARNEY: Good morning, sir. The judge is going
6 to instruct you on what the law is and whether something is or
7 is not illegal. Are you going to be able to follow his
8 instructions?

9 PROSPECTIVE JUROR: Yes.

11:42 10 MS. KEARNEY: Your feelings on privilege, is there
11 anything about that that would make you unable to judge the
12 evidence fairly and impartially?

13 PROSPECTIVE JUROR: No. I don't believe there is.

14 MS. KEARNEY: Thank you, sir.

15 THE COURT: Thank you, Mr. Wakelin. You will be held
16 in reserve and go with Mr. McAlear at this point. Please do
17 not try to do any independent research on this case. That
18 would be entirely inappropriate, as I'm sure you know, because
19 you're going to decide this case, if you are selected to be a
11:42 20 juror, solely on the basis of the evidence that comes into this
21 courtroom. Thank you.

22 (Prospective juror exits.)

23 MR. KENDALL: Your Honor, if we may have a moment?

24 THE COURT: Yes, Mr. Kendall.

25 MR. KENDALL: Again, we have a very fine person,

1 intelligent, straightforward, honest person, someone to be
2 respected. The fact -- and he knows what he's supposed to say
3 and he knows what is the appropriate thing to do. I think he's
4 a person who believes in doing the appropriate thing right
5 away. The fact that he says his brother-in-law got four kids
6 into Harvard and his didn't get in, I think this is something
7 that bothers him. While jurors try to be dispassionate, this
8 is clearly something that's ingrained in him. And it was a
9 family issue. I was sort of shocked at the answer. It bothers
11:43 10 him. I think it will affect the way he looks at this case. We
11 like to think we can always be dispassionate and analytical,
12 but some baggages you can't get rid of. I think this is an
13 example of that.

14 MR. KELLY: I would enjoin in that motion to excuse
15 for cause. I think the way he kept bringing up privilege,
16 privilege, privilege, suggests he is going to be biased in this
17 case. His answers, the Harvard situation, although he didn't
18 go to Harvard, maybe he didn't go to Dartmouth, I can see why
19 he's troubled, but those answers suggest he probably cannot be
11:44 20 fair in this case. We would enjoin in that motion to excuse
21 him.

22 THE COURT: Miss Kearney?

23 MS. KEARNEY: Your Honor, the prospective juror said
24 he could listen to the evidence fairly and impartially and
25 could follow your instructions. Given that, we do not agree.

1 THE COURT: He will not be excused.

2 MR. FRANK: Your Honor, briefly, some of the
3 questioning there --

4 THE COURT: It got close to the line, I agree,
5 Mr. Frank. I'm not going to allow questions that basically are
6 an opening argument, Mr. Kendall. That almost got to the point
7 where I told the potential juror not to answer. Be careful
8 from now on.

9 MR. KENDALL: I apologize, your Honor. I did not
10 intend to do that. That's the only person I really probed with
11 the whole day. I understand your point.

12 (Prospective juror enters.)

13 THE COURT: Good morning, Miss Golden. Please be
14 seated. You're reminded you are still under oath. You may
15 remove the mask if you want to, but you don't have to.

16 In response to some of the questions or one particular
17 question on the questionnaire you said you had strong feelings
18 about wealthy people who don't pay workers well or make the
19 world a better place.

11:46 20 PROSPECTIVE JUROR: Yes.

21 THE COURT: The question in this case, which involves
22 two at least potentially wealthy defendants, is can you decide
23 this case based solely on the evidence that comes into this
24 courtroom and not on your concern about wealthy people in
25 general.

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: In other words, this response to 43, and
3 you were being honest, is a general feeling you have, but you
4 could put it behind you and decide this case without reference
5 to that concern?

6 PROSPECTIVE JUROR: Yes, I could.

7 THE COURT: Is there anything about any of the
8 questions on the questionnaire or your answers to them that
9 gave you pause as to your ability to be fair and impartial in
11:47 10 this case?

11 PROSPECTIVE JUROR: Not to be fair and impartial, but
12 I was concerned about the one to stay off social media, since
13 that is the only way I communicate --

14 THE COURT: Say that again.

15 PROSPECTIVE JUROR: I was concerned about the one that
16 asked me to stay off social media for the duration. I'm a
17 small business owner. That's how I communicate with my
18 customers.

19 THE COURT: It certainly doesn't mean you can't use
11:47 20 that for your profession. The concern is that people, it's so
21 easy to get information on the internet, that you go on and
22 start to do independent research. That can't be done. I can't
23 allow that to be done during the trial because this case is
24 going to be decided solely on the basis of the evidence that
25 comes into this courtroom and not on the basis of any

1 independent research that you or any other juror might do. So
2 that's going to be an instruction that I give at the very
3 beginning of the case, that you cannot use social media or any
4 other electronic means to do anything to do with this case.
5 That doesn't mean you can't do your own job by using it.

6 PROSPECTIVE JUROR: Got it.

7 THE COURT: With that qualification, can you follow
8 that instruction?

9 PROSPECTIVE JUROR: Yes. That's not a problem. I
10 actually have no idea what the case is even about, so I've
11 already done no research.

12 THE COURT: Fair enough. Any questions, Mr. Kelly?

13 MR. KELLY: Yes. Good morning. Brian Kelly. I
14 represent Mr. Aziz here. Thank you for coming in. Just a
15 couple quick follow-up questions.

16 The Court's question about social media and your
17 answer, I assume that includes Facebook?

18 PROSPECTIVE JUROR: Yes.

19 MR. KELLY: Isn't it a thing on Facebook where news
11:48 20 flashes pop up?

21 PROSPECTIVE JUROR: Not through the business page.
22 There's no news feed. It's just my ability to communicate with
23 my customers.

24 MR. KELLY: You say you use it for your business and
25 could not function without it?

1 PROSPECTIVE JUROR: Correct. I wouldn't be able to
2 contact my customers or run my business for the month or
3 however long it takes.

4 MR. KELLY: What other forms of social media do you
5 use?

6 PROSPECTIVE JUROR: Also Instagram.

7 MR. KELLY: Do they sometimes send you messages about
8 current events?

9 PROSPECTIVE JUROR: No. I'm a makeup artist. No one
10 tells me anything about what's going on in the world.

11 MR. KELLY: Are you a college sports fan in any way?

12 PROSPECTIVE JUROR: No.

13 MR. KELLY: There was an answer to one of these
14 questions that you have strong feelings about wealthy people.
15 Can you just share with us what those strong feelings may be.

16 PROSPECTIVE JUROR: It's not about all wealthy people.
17 When I see something, like that Wal-Mart has more people who
18 are on government assistance and employed, what? If you're
19 employed, you should be able to make enough to not be on
11:50 20 government assistance. I don't understand. It's just in
21 situations like that where I tend to judge whoever's at the top
22 of the hierarchy.

23 MR. KELLY: If there were people in this case who had
24 done well in their lives and had good jobs, you wouldn't resent
25 them for that?

1 PROSPECTIVE JUROR: I don't have anything against ones
2 who are wealthy in general, just ones who take advantage of
3 people to get there.

4 THE COURT: Mr. Kendall.

5 MR. KENDALL: A couple things. You run your own
6 business.

7 PROSPECTIVE JUROR: Yes.

8 MR. KENDALL: Do you have employees?

9 PROSPECTIVE JUROR: Just me.

11:50 10 MR. KENDALL: If we tie you up most of the day with
11 the trial, will you be able to manage things?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Miss Kearney.

14 MS. KEARNEY: Good morning. One of the questions in
15 your questionnaire you mentioned related to prior experience
16 being a victim of a crime. I wanted to ask, do you feel you
17 were treated fairly in that experience in terms of the criminal
18 justice system?

19 PROSPECTIVE JUROR: I did not move it over to the
11:51 20 criminal justice system, what happened there.

21 MS. KEARNEY: Was there anything about your feelings
22 about the criminal justice system there that caused you to not
23 move forward?

24 PROSPECTIVE JUROR: No. The person who assaulted me
25 was not an American so it wasn't really relevant.

1 MS. KEARNEY: Thank you.

2 THE COURT: Thank you, Miss Golden. I'm going to ask
3 you to go into what we're calling reserve, which means you're
4 going with Mr. McAlear. If you are called back to serve on
5 this jury, please don't do any research in the meantime. It
6 would be inappropriate, as we've just talked about. You can't
7 go do some independent research because the case is going to be
8 decided on the basis of the evidence that comes here and not on
9 any outside information.

11:51 10 PROSPECTIVE JUROR: I will continue not paying
11 attention to the world.

12 THE COURT: Thank you, Miss Golden.

13 (Prospective juror exits.)

14 (Prospective juror enters.)

15 THE COURT: Good morning, Mr. Walsh. You may be
16 seated. You are reminded you are still under oath. You may
17 remove the mask if you want to, but you don't have to.

18 I understand, Mr. Walsh, that you are a dentist.

19 PROSPECTIVE JUROR: Yes, sir.

11:53 20 THE COURT: And if you were to be called to serve on
21 this case, that it would perhaps cause you some financial
22 hardship, is that fair to say?

23 PROSPECTIVE JUROR: It would be difficult because I
24 have 11 employees. I think it would be difficult for them,
25 because if I'm not there, they can't work.

1 THE COURT: In other words, you're the top of the
2 pyramid and what goes on underneath needs you to guide?

3 PROSPECTIVE JUROR: Yes, your Honor.

4 THE COURT: We call people to serve on juries and we
5 expect that they're going to undergo inconvenience, sometimes
6 serious inconvenience, but not hardship. The difference
7 between inconvenience and hardship sometimes is hard to
8 discern, but I don't want to cause you financial hardship or
9 your practice financial hardship. If that's going to occur,
11:54 10 then I'm going to excuse you from this jury, but you have to
11 tell me.

12 PROSPECTIVE JUROR: Yes. It would be a hardship.
13 I've actually just -- I haven't been in my office for the past
14 2 weeks because I'm just recovering from a pinched sciatic
15 nerve, so that's another 2 weeks that I've been out of my
16 offices.

17 THE COURT: This would be kind of exacerbating an
18 already occurring problem?

19 PROSPECTIVE JUROR: Yes, sir. It would be.

11:54 20 THE COURT: I'm going to excuse you from this jury.
21 That doesn't excuse you for all jury duty. I hope some time
22 when you get a little break in your practice that you'll be
23 willing to serve because it's a very important civic
24 responsibility.

25 PROSPECTIVE JUROR: I've served before in a trial. I

1 would be happy to do that at some other point in time.

2 THE COURT: Thank you, Mr. Walsh. You're excused.

3 (Prospective juror exits.)

4 (Prospective juror enters.)

5 THE COURT: Good morning, Miss Burke.

6 PROSPECTIVE JUROR: Good morning.

7 THE COURT: Please be seated. You're reminded that
8 you remain under oath. You may remove the mask if you want to,
9 but you don't have to.

11:55 10 Miss Burke, you mentioned that two of your cousins
11 attended Harvard.

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: As you know, this case involves
14 allegations that involve other universities, Harvard and other
15 universities. Would the fact that you have some even remote
16 connection with Harvard affect your ability to be fair and
17 impartial in this case?

18 PROSPECTIVE JUROR: No.

19 THE COURT: You can base this case on the evidence
11:56 20 that comes into the courtroom and not any other matters that
21 come into your head?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Is there anything in the questionnaire
24 that gave you pause as to your ability to be fair in this case?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Mr. Kelly, any questions for this juror?

2 MR. KELLY: Briefly. Good morning, Brian Kelly. I
3 represent Mr. Aziz.

4 I notice you're a Bruins fan. Do you follow college
5 sports at all?

6 PROSPECTIVE JUROR: Not at all.

7 MR. KELLY: Thanks. That's it.

8 THE COURT: Mr. Kendall?

9 MR. KENDALL: Nothing, your Honor.

11:56 10 THE COURT: Miss Kearney?

11 MS. KEARNEY: Good morning, ma'am. No questions.

12 THE COURT: Thank you, Miss Burke. I'd like you to go
13 in reserve, which is what we're calling we're holding for
14 potential future service on this jury. Mr. McAlear will show
15 you where to go. You're, of course, forewarned not to do any
16 independent research on this case. That would be
17 inappropriate, as I'm sure you understand. Don't try to do any
18 looking up on the internet as to what this case might involve.
19 Okay?

11:57 20 PROSPECTIVE JUROR: Okay.

21 (Prospective juror exits.)

22 (Prospective juror enters.)

23 THE COURT: Good morning, Miss DiCastro. Please take
24 a seat. You're reminded you remain under oath. You may remove
25 the mask if you want to, but you don't have to.

1 Miss DiCastro, you mentioned that your job in a small
2 office would make it difficult for you to find coverage if you
3 had to serve for 4 weeks on a jury.

4 PROSPECTIVE JUROR: That's correct.

5 THE COURT: I take it that means that would cause you
6 a financial hardship or your business a financial hardship. Is
7 that fair to say?

8 PROSPECTIVE JUROR: Yes. I work in a very small
9 office. We have four people. It would be hard for coverage.

11:58 10 THE COURT: So this would cause you a hardship to
11 serve on the jury?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: I'm going to excuse you from this jury.
14 That doesn't excuse you from all juries. I hope at a different
15 time, maybe not so stressful in your business, you will serve
16 as a juror because it's a very important civic responsibility.
17 Okay?

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: You're excused from this jury. Thank you
11:59 20 for coming in today.

21 (Prospective juror exits.)

22 (Prospective juror enters.)

23 THE COURT: Good morning, Mr. Sullivan.

24 PROSPECTIVE JUROR: Good morning.

25 THE COURT: Would you please remove your hat. Thank

1 you. You can remove your mask if you want, but you don't have
2 to do that.

3 PROSPECTIVE JUROR: Thank you.

4 THE COURT: You're reminded that you remain under
5 oath. I understand that you work at a distant place.

6 PROSPECTIVE JUROR: That's correct.

7 THE COURT: Would service on this jury cause you a
8 financial hardship?

9 PROSPECTIVE JUROR: It may.

12:00 10 THE COURT: By may?

11 PROSPECTIVE JUROR: Well, it will, yes.

12 THE COURT: I don't want to cause you financial
13 hardship. We do ask you to endure inconvenience, but we don't
14 ask you to give up your job or give up your wherewithall that
15 you need to live on. I'm going to excuse you from this jury.
16 That doesn't excuse you from all jury duty. I hope you'll find
17 a time when you can perform your civic responsibility of
18 serving on a jury, but this one's going to be 4 weeks and it
19 will cause you, presumably, to have some financial hardship.
12:00 20 I'm not going to do that. You're excused.

21 PROSPECTIVE JUROR: Thank you.

22 (Prospective juror exits.)

23 (Prospective juror enters.)

24 THE COURT: Good afternoon, Mr. Glassman.

25 PROSPECTIVE JUROR: Good afternoon.

1 THE COURT: Please be seated. You're reminded that
2 you remain under oath. You may remove the mask if you want to,
3 but you don't have to.

4 Mr. Glassman, I understand from the answers that you
5 gave on your questionnaire that you played college sports back
6 in your day, is that right?

7 PROSPECTIVE JUROR: No, one of my sons.

8 THE COURT: I misunderstood that. Would the fact that
9 your son was involved in college athletics and that this case
10 involves alleged fraudulent claims of athletic prowess in any
11 way affect your ability to be fair and impartial?

12 PROSPECTIVE JUROR: No.

13 THE COURT: In other words, you can decide this case
14 solely on the evidence that comes into this courtroom and not
15 on the basis of anything you've heard outside of it?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Any questions for this potential juror,
18 Mr. Kelly?

19 MR. KELLY: Briefly. Good morning, Brian Kelly. I
12:02 20 represent Mr. Aziz here. Putting aside the Bridgewater State
21 football, do you follow college sports in general?

22 PROSPECTIVE JUROR: No, I don't.

23 MR. KELLY: Thanks.

24 THE COURT: Mr. Kendall?

25 PROSPECTIVE JUROR: Thank you for coming in. No

1 questions, your Honor.

2 THE COURT: Miss Kearney?

3 MS. KEARNEY: Good afternoon, Mr. Glassman. I wanted
4 to follow-up on one of the questions about your prior juror
5 service. You said the jury did not come to a verdict. Can you
6 elaborate?

7 PROSPECTIVE JUROR: It was a mistrial. There were six
8 of us, and we didn't agree on a verdict.

9 MS. KEARNEY: Was it fairly guided or was there one
10 hold out?
12:03

11 PROSPECTIVE JUROR: It was two to four.

12 MS. KEARNEY: Thank you, sir.

13 THE COURT: Do you remember what kind of case it was?

14 PROSPECTIVE JUROR: It was a marijuana case.

15 THE COURT: Whereabouts?

16 PROSPECTIVE JUROR: I think it was Fall River or New
17 Bedford that it was in.

18 THE COURT: Thank you. Thank you, Mr. Glassman. I'm
19 going to ask you to go into reserve, which Mr. McAlear will
12:03 20 explain to you. It means you may or may not be called back.
21 In the meantime, please do not do any independent research on
22 this case. That would be inappropriate. Thank you for your
23 attendance.

24 (Prospective juror exits.)

25 (Prospective juror enters.)

1 THE COURT: Good morning, Mr. Marshall. Please be
2 seated. You're reminded that you remain under oath. You may
3 remove the mask if you want to, but you don't have to.

4 Was there anything in the questionnaire that gave you
5 pause as to whether you could be fair and impartial in this
6 case?

7 PROSPECTIVE JUROR: No.

8 THE COURT: You can decide this case solely on the
9 evidence that comes into this courtroom and not on any evidence
10 from outside the courtroom?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: You said you may have a hearing problem.
13 Are you having a hard time hearing what I'm saying?

14 PROSPECTIVE JUROR: No. I can hear you.

15 THE COURT: We do have assistance for those who have
16 hearing difficulties. If and when you are chosen as a juror
17 and you want to have a headset or something, we have that.

18 PROSPECTIVE JUROR: Okay.

19 THE COURT: The other thing is, of course, if there's
12:05 20 any time when you can't hear a witness, you raise your hand and
21 we have the witness repeat his or her answer.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: So we do have the ability to assist people
24 who have that sort of a hardship. Is there any reason you can
25 see why you can't be fair and impartial in this case?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Mr. Kelly, any questions?

3 MR. KELLY: Just briefly. Good afternoon. My name's
4 Brian Kelly. I represent Mr. Aziz here. Are you a college
5 sports fan at all?

6 PROSPECTIVE JUROR: Not really.

7 MR. KELLY: There's one question on the questionnaire,
8 actually a lot of questions. One of them asked whether or
9 not -- it says the prosecution had the burden of proving the
10 defendant is guilty beyond a reasonable doubt. The defendant
11 does not have to prove that he's innocent. Then it asked the
12 question do you disagree in any way with this principle. You
13 answered yes. I'm trying to get an understanding of what you
14 meant.

15 PROSPECTIVE JUROR: I didn't understand the question
16 that well I guess.

17 MR. KELLY: If the judge, who's the boss on the law
18 and many other things, if he tells you it's the government's
19 burden of proving that the defendant is guilty beyond a
12:07 20 reasonable doubt, will you follow the judge's instruction?

21 PROSPECTIVE JUROR: Yes.

22 MR. KELLY: If he tells you the defendant, like my
23 client, does not have to prove that he's innocent, will you
24 follow that instruction?

25 PROSPECTIVE JUROR: Yes.

1 MR. KELLY: Is there anything about what you've seen
2 in this questionnaire or heard to date in this process that
3 would prevent you from being fair to all sides?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Mr. Kendall?

6 MR. KENDALL: Good day. No questions.

7 THE COURT: Miss Kearney?

8 MS. KEARNEY: Good afternoon. In your response to one
9 of the questions about whether you, a relative or close friend
10 had any prior experience being arrested or charged with a
11 crime, was there anything about that experience that you felt
12 the people involved were not treated fairly?

13 PROSPECTIVE JUROR: No. They were treated right.

14 MS. KEARNEY: Was there anything about that experience
15 that would affect your ability to be fair and impartial in this
16 trial?

17 PROSPECTIVE JUROR: No.

18 MS. KEARNEY: Thank you, sir.

19 THE COURT: Thank you, Mr. Marshall. I'll have you go
12:08 20 into reserve, which is what we're calling those who may be
21 called back for further jury duty. You will go with
22 Mr. McAlear. Please understand that you're not to do any
23 independent research about this case on the internet. That
24 would be inappropriate because you're going to decide this
25 case, if and when you're chosen as a juror, solely based on the

1 evidence that comes into this courtroom.

2 (Prospective juror exits.)

3 (Prospective juror enters.)

4 THE COURT: Good afternoon, Mr. Bowker. You may be
5 seated. You may remove your mask if you want to. You are
6 reminded you are under oath.

7 Mr. Bowker, you are self employed?

8 PROSPECTIVE JUROR: That's correct.

9 THE COURT: Service on this jury, which would take
12:09 10 about 4 weeks, would cost you serious hardship?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: I'm not going to cause you hardship. You
13 need to be employed. You need to make a living. This is going
14 to take 4 weeks. I take it this is the time of year when
15 chartering a boat is able to be done as opposed to November or
16 December or January, right?

17 PROSPECTIVE JUROR: Yes. That's correct, sir.

18 THE COURT: Maybe in the wintertime when you're not
19 working you can serve on another jury because it's a very
12:10 20 important civic responsibility that you have to serve on
21 juries, but I'm not going to make you serve on this one and
22 endure financial hardship. You're excused, Mr. Bowker.

23 PROSPECTIVE JUROR: Thank you, your Honor.

24 (Prospective juror exits.)

25 (Prospective juror enters.)

1 THE COURT: Good afternoon, Mr. Ratliff. It's
2 Ratliff. Ratliff. Please be seated. You're reminded that you
3 remain under oath. You may remove the mask if you want to, but
4 you don't have to.

5 Was there anything on that questionnaire that gave you
6 pause as to whether or not you could be fair and impartial in
7 this case?

8 PROSPECTIVE JUROR: No, your Honor.

9 THE COURT: You're convinced you could decide this
10 case solely based on the evidence that comes into this
11 courtroom and not on any outside influences?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Your wife was employed by Salem State?

14 PROSPECTIVE JUROR: That's correct.

15 THE COURT: Does the fact that this case involves
16 other universities in any way affect your ability to be fair
17 and impartial?

18 PROSPECTIVE JUROR: No, your Honor.

19 THE COURT: Mr. Kelly, any questions?

12:11 20 MR. KELLY: Briefly. Good afternoon, Brian Kelly. I
21 represent Mr. Aziz here. A lot of the case will have some
22 discussion about sports, college sports. Are you a college
23 sports fan at all?

24 PROSPECTIVE JUROR: No, not at all.

25 MR. KELLY: Thanks. That's it.

1 THE COURT: Mr. Kendall?

2 MR. KENDALL: Nothing, your Honor. Thank you.

3 THE COURT: Miss Kearney?

4 MS. KEARNEY: Good afternoon, Mr. Ratliff. You
5 disclosed in your questionnaire that you were previously a
6 witness in a criminal trial. Was there anything about that
7 experience that made you feel that you were treated unfairly?

8 PROSPECTIVE JUROR: My apologies if that's what I
9 indicated. My mother was. It asked if a family member was. I
10 wasn't involved in that. I don't believe so, no.

11 MS. KEARNEY: Was there anything about the way your
12 mother was treated that makes you feel she was treated
13 unfairly?

14 PROSPECTIVE JUROR: No.

15 MS. KEARNEY: Anything about your mother's experience
16 and what she's told you about it make you think you can't be
17 unfair or impartial?

18 PROSPECTIVE JUROR: No. I was a child.

19 THE COURT: Thank you, Mr. Ratliff. I'm going to ask
12:12 20 you to go into reserve, which means you may be called back for
21 further jury duty. In the meantime, please do not do any
22 internet research about this case. That would be inappropriate
23 because you're going to judge this case on the basis of
24 evidence that comes into the courtroom and not online.

25 MR. KENDALL: Your Honor, I overlooked something.

1 THE COURT: Of course.

2 MR. KENDALL: Number nine where you listed your
3 employment background, you listed that you did tax return prep
4 for about 4 years. Can you just tell us about the job, what
5 you did, what you thought about it.

6 PROSPECTIVE JUROR: Of course. I worked at Jackson
7 Hewitt, started as just a preparer, seasonal work. I'm in
8 finance now. It was in preparation, I thought, for my coming
9 career. My last year with them I was an office manager. That
10 was for about three and a half months.

11 MR. KENDALL: Do you have any training or formal
12 education in how to do tax return work?

13 PROSPECTIVE JUROR: Jackson Hewitt provides training.
14 My formal training would come later when I was getting my
15 bachelor's degree in accounting and finance.

16 MR. KENDALL: Thank you, your Honor.

17 THE COURT: Thank you, Mr. Ratliff. You may step
18 down.

19 (Prospective juror exits.)

12:14 20 (Prospective juror enters.)

21 THE COURT: Good afternoon, Mr. Yee. Please be
22 seated. You are reminded that you remain under oath. You may
23 remove your mask if you want to, but you don't have to.

24 Mr. Yee, you indicate you are a self-employed music
25 educator. Will service on this jury, which is going to last

1 about 4 weeks, cause you a financial hardship or will you be
2 able to continue your teaching?

3 PROSPECTIVE JUROR: I should be fine.

4 THE COURT: In other words, we normally go from nine
5 to three or 3:30 Monday through Friday, not every day. We will
6 have some days when we won't be in session and, of course,
7 we're not in session on the weekends. I don't want to cause
8 you financial hardship to be a juror on this case. I don't
9 know. You'll have to tell me if that's a problem.

12:15 10 PROSPECTIVE JUROR: I will be missing quite a bit of
11 workdays if I were to serve as a juror.

12 THE COURT: It would not cost you a financial
13 hardship?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Was there anything else on the long
16 questionnaire you had to fill out yesterday that gave you pause
17 as to whether or not you could be fair and impartial in this
18 case?

19 PROSPECTIVE JUROR: No.

12:16 20 THE COURT: You're convinced you can decide this case
21 solely on the evidence that comes into this courtroom and not
22 on anything else you believe you may have heard about it?

23 PROSPECTIVE JUROR: I think so.

24 THE COURT: Mr. Kelly.

25 MR. KELLY: Briefly. Good afternoon. Brian Kelly. I

1 represent Mr. Aziz here. I didn't understand or maybe I didn't
2 hear it correctly. The answer about being self-employed. You
3 said if you have to be in a 4-week trial you'll miss a lot of
4 workdays.

5 PROSPECTIVE JUROR: I would miss a few workdays but I
6 would be okay.

7 MR. KELLY: Would it concern you having to miss those
8 workdays for the next month? If the trial goes 4 weeks, is
9 that going to cause you problems?

10 12:16 PROSPECTIVE JUROR: Yes, but I think I would be okay
11 even then.

12 MR. KELLY: There's a question on this questionnaire
13 that asks you about if you've done jury service before.

14 PROSPECTIVE JUROR: I have, state jury.

15 THE COURT: You thought it was targeting state jury
16 because you said you weren't sure.

17 PROSPECTIVE JUROR: I served twice in state court.

18 MR. KELLY: Were they a criminal case like this where
19 the burden is --

20 12:17 PROSPECTIVE JUROR: That's what I don't really
21 remember.

22 MR. KELLY: You don't remember if it was a civil
23 dispute over money? When was it? Do you know?

24 PROSPECTIVE JUROR: Four and then 7 years ago.

25 MR. KELLY: So it was two different trials?

1 (Prospective juror nods head.)

2 THE COURT: You have to answer orally.

3 PROSPECTIVE JUROR: Yes.

4 MR. KELLY: You don't know if it was civil or
5 criminal?

6 PROSPECTIVE JUROR: I think it might have been civil.

7 MR. KELLY: Did the jury reach a verdict?

8 PROSPECTIVE JUROR: Yes.

9 MR. KELLY: In both of them?

12:18 10 PROSPECTIVE JUROR: Yes.

11 MR. KELLY: Do you remember the verdict?

12 PROSPECTIVE JUROR: Not guilty.

13 MR. KELLY: If it was civil, it would be not liable.

14 PROSPECTIVE JUROR: It's 4 years ago.

15 MR. KELLY: That's quite a while. That's all right.
16 Are you a college sports fan?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Mr. Kendall?

19 MR. KENDALL: In question 39 -- first of all, good
12:18 20 afternoon. Mike Kendall. I represent Mr. Wilson.

21 Question 39 asked "this case has been referred to the
22 media as the varsity blues and college admissions case. Have
23 you read any articles, read any books, watched any news or any
24 information about it?" You've never heard of this case before?

25 PROSPECTIVE JUROR: No.

1 MR. KENDALL: Then that's it. Thanks.

2 THE COURT: Miss Kearney?

3 MS. KEARNEY: Good afternoon, sir. No questions.

4 THE COURT: Thank you, Mr. Yee. I'm going to ask you
5 to go into reserve. That's where we ask you to wait to see if
6 you'll be asked to do any further jury duty. In the meantime,
7 please do not do any independent research. That would be
8 inappropriate, as I'm sure you understand. This case is going
9 to be decided solely on the basis of the evidence that comes
10 into this courtroom and not on anything outside of it. Okay?

11 PROSPECTIVE JUROR: Yes.

12 (Prospective juror exits.)

13 (Prospective juror enters.)

14 THE COURT: Good afternoon, Mr. Megna. You may be
15 seated. You're reminded that you're under oath. You may
16 remove your mask but you don't have to. Mr. Megna, you
17 apparently care weekly for your father and your grandfather.
18 Would the fact that you had to serve on a jury for 4 weeks
19 affect that ability to take care of them?

12:20 20 PROSPECTIVE JUROR: Yes, sir. It's my grandmother
21 actually.

22 THE COURT: I take it you feel that having to serve on
23 this jury is a hardship?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: We ask you to endure inconvenience, but we

1 don't require hardship. I'm going to excuse you. That doesn't
2 excuse you from all jury duty. You have a civic obligation to
3 serve on duties when and if you're able to do so, so I hope at
4 some point in the future you're able to do that. Thank you,
5 Mr. Megna. You're excused.

6 (Prospective juror exits.)

7 (Prospective juror enters.)

8 THE COURT: Good afternoon, Miss Marini. Please be
9 seated. You're reminded that you remain under oath. You may
10 remove the mask if you want to, but you don't have to.

11 PROSPECTIVE JUROR: Thank you.

12 THE COURT: Miss Marini, will serving on this jury
13 cause you a financial hardship?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Because it's going to last about 4 weeks
16 and we don't want to cause you financial hardship. The other
17 question is, was there anything in that questionnaire that gave
18 you pause as to whether or not you can be fair and impartial in
19 this case?

12:22 20 PROSPECTIVE JUROR: No.

21 THE COURT: You could decide this case solely on the
22 evidence that comes into this courtroom and not on something
23 you've heard outside the courtroom?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: You have a couple of children who were

1 college athletes. Is that true?

2 PROSPECTIVE JUROR: Yes. One is still in college
3 playing hockey. The other just graduated BU.

4 THE COURT: Where does he play hockey?

5 PROSPECTIVE JUROR: University of Southern Maine.

6 THE COURT: Would the fact that you have college
7 athletes as children in any way affect your ability to be fair
8 and impartial in this case, which involves allegations of
9 misstatements about athletic ability in order to get into
10 college?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Mr. Kelly, any questions?

13 MR. KELLY: Just briefly. Good afternoon. Thanks for
14 coming in. I represent Mr. Aziz here. To follow-up briefly on
15 that, your daughter or son who plays hockey?

16 MR. KENDALL: My daughter was a rower. My son plays
17 hockey.

18 MR. KELLY: Nothing about that would affect your
19 judgment in this case?

12:23 20 PROSPECTIVE JUROR: No.

21 MR. KELLY: Do you follow college sports?

22 PROSPECTIVE JUROR: I do. We're more of a college
23 athletic family. We watch football, hockey, basketball.

24 MR. KELLY: Anything about that would prevent you to
25 being fair on all sides of this case?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Mr. Kendall?

3 MR. KENDALL: Thank you, your Honor. Mike Kendall. I
4 represent John Wilson.

5 I just have a question about 25. You disclose your
6 employment at the Executive Office of the Trial Court for the
7 Commonwealth. Can you just tell us what you do.

8 PROSPECTIVE JUROR: I work for the Executive Office in
9 the Department of Research and Planning, like a repository for
10 all of the Trial Courts stats, I guess you'd say. We collect
11 data on all cases. No names are attached to the data. I
12 basically run the office, HR, payroll, procuring supplies and
13 things like that.

14 MR. KENDALL: I take it you're not in courtrooms.

15 PROSPECTIVE JUROR: No.

16 MR. KENDALL: And you have nothing to do with court
17 cases?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Miss Kearney.

12:24 20 MS. KEARNEY: Good afternoon. You also answered a
21 question about other jury service. Is there anything about
22 that that would affect your ability to be fair and impartial in
23 this trial?

24 PROSPECTIVE JUROR: No.

25 MS. KEARNEY: You also noted someone you knew had

1 prior involvement in the criminal justice system. Is there
2 anything about that that would affect your ability to be fair
3 and impartial?

4 PROSPECTIVE JUROR: No. I think I meant myself and
5 maybe my brother. He's a clerk within the civil department.

6 MS. KEARNEY: I think you put down here you or someone
7 you know had been either arrested or charged with a crime. Did
8 you feel that the person who was arrested or charged was
9 treated fairly?

12:25 10 PROSPECTIVE JUROR: Oh, yeah.

11 MS. KEARNEY: Thank you.

12 THE COURT: Thank you, Miss Marini. I'm going to ask
13 you to go into reserve, which means that I'm going to hold you
14 for the potential of calling back. In the meantime, please
15 don't do any independent research. That would be
16 inappropriate, of course, for you to go online and scope out
17 what this case is all about. That would be inappropriate
18 because you're going to decide this case, if and when you are
19 selected as a juror, solely based on the evidence that comes
12:25 20 into the courtroom and not on any outside sources.

21 PROSPECTIVE JUROR: Absolutely.

22 (Prospective juror exits.)

23 (Prospective juror enters.)

24 THE COURT: Good afternoon, Mr. Scannell. Is it
25 Scannell or Scannell?

1 PROSPECTIVE JUROR: Either is fine. Scannell is
2 preferred.

3 THE COURT: Good afternoon. You may be seated. You
4 may remove your mask, if you want. You are under oath.

5 Mr. Scannell, you're in auto sales?

6 PROSPECTIVE JUROR: I am.

7 THE COURT: Would the fact you would have to serve on
8 a jury for 4 weeks cause you financial hardship?

9 PROSPECTIVE JUROR: It would. I just finished up
10 6 years of college for two students. That's kind of drained a
11 lot of the extra, and I have one with medical issues we're
12 trying to help with.

13 THE COURT: You can see the light at the end of the
14 tunnel for that.

15 PROSPECTIVE JUROR: I hope so.

16 THE COURT: We don't mean to cause financial hardship.
17 We understand jury duty causes inconvenience, but we don't want
18 to cause financial hardship. I'm going to excuse you from
19 this. That doesn't excuse you from all jury duty, I hope you
12:26 20 understand. I hope you'll be willing to serve on a jury
21 further in the future.

22 PROSPECTIVE JUROR: Hopefully, it's somewhere down the
23 road. Thank you. Enjoy the day.

24 (Prospective juror exits.)

25 (Prospective juror enters.)

1 THE COURT: Good afternoon, Miss Frithsen. Frithsen?

2 PROSPECTIVE JUROR: Frithsen.

3 THE COURT: Miss Frithsen, please understand you're
4 still under oath. You may remove your mask, but you don't have
5 to.

6 You have answered some of the questions about the fact
7 that you're uncomfortable if people don't go through the proper
8 process when getting degrees and there's sort of an entitlement
9 from the wealthy. Having that opinion, would that affect your
10 ability to be fair and impartial in this case, which involves
11 people who allegedly have used their wealth to help them get
12 kids into college? We have to know a little bit more as to how
13 your feeling affects your ability to be fair and impartial.

14 PROSPECTIVE JUROR: I think I could see both sides,
15 but I think I do -- that entitlement, I've seen it. It doesn't
16 sit easy with me.

17 THE COURT: The issue is whether you can decide the
18 case based upon the evidence that comes into this courtroom and
19 not on the basis of your prior understanding and dislike of
12:29 20 people that abuse the system.

21 PROSPECTIVE JUROR: I think I could see the evidence
22 and make a fair judgment.

23 THE COURT: We can't get inside your head. Only you
24 can tell us. If you can't be, you're under oath, you have to
25 be truthful. You have to tell us that, no, I couldn't, I

1 couldn't put that out of my head, or, yes, notwithstanding the
2 fact that I have an uncomfortable feeling, I could be fair and
3 impartial and listen to the evidence and decide the case solely
4 based on the evidence. Only you can tell me that.

5 PROSPECTIVE JUROR: Yes. I think that despite feeling
6 uncomfortable I could listen to the evidence.

7 THE COURT: You've answered yet another question,
8 number 49, which asks you about any potential bias. You said
9 sense of entitlement and wealthy schools is a reason you left
12:30 10 your past job. Tell me a little bit about that.

11 PROSPECTIVE JUROR: Sure. The pressure from the
12 parents on the students and that sense of if they weren't
13 performing and getting into the schools they wanted, it fell
14 back on the school district where I worked.

15 THE COURT: Would you mind telling me what school
16 district that was.

17 PROSPECTIVE JUROR: Manchester Essex Regional School
18 District.

19 THE COURT: That led you to leave?

12:31 20 PROSPECTIVE JUROR: That was one reason. There were
21 multiple reasons. It was one thing that I wanted a different
22 population to work with.

23 THE COURT: Would that in any way affect your ability
24 to be fair and impartial in this case?

25 PROSPECTIVE JUROR: I think I could be fair and

1 impartial. I think I'd be uncomfortable.

2 THE COURT: Uncomfortable meaning that you would
3 hesitate to find for the defendants if the government couldn't
4 prove its case beyond a reasonable doubt?

5 PROSPECTIVE JUROR: Sorry. Can you repeat the
6 question.

7 THE COURT: The government has an obligation to prove
8 the allegations beyond a reasonable doubt, which is a very
9 strict standard. If you felt that the government hadn't done
10 that, would you feel uncomfortable in returning a verdict of
11 not guilty for these defendants?

12 PROSPECTIVE JUROR: Possibly. I think it could -- I
13 think this would be difficult for me.

14 THE COURT: I'm going to excuse you from this jury. I
15 thank you for your honesty. That's what we need. You're
16 entitled to your opinions. That doesn't excuse you from all
17 jury duty. I hope you will be willing to serve on another jury
18 because it is one of the most important civic obligations we
19 have as citizens. I'll excuse you from this one. Maybe
12:32 20 another time you will serve. Okay?

21 PROSPECTIVE JUROR: Right.

22 THE COURT: Thank you.

23 (Prospective juror exits.)

24 (Prospective juror enters.)

25 THE COURT: Good afternoon, Miss Rodrigues.

1 PROSPECTIVE JUROR: Good afternoon.

2 THE COURT: Please be seated. You're reminded that
3 you remain under oath. You may remove the mask if you want to,
4 but you don't have to.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: You are employed on the North Shore.
7 Would service on this jury for 4 weeks cause you financial
8 hardship?

9 PROSPECTIVE JUROR: No, it would not.

12:33 10 THE COURT: So that's not a problem?

11 PROSPECTIVE JUROR: Correct.

12 THE COURT: Was there anything else on that
13 questionnaire that gave you pause as to whether or not you
14 could be fair and impartial in this case?

15 PROSPECTIVE JUROR: Yes. My son actually is a current
16 athlete at UMass Amherst. I don't know much about the case
17 itself, but when you mentioned Varsity Blues, that brought
18 pause for thought because when he was going through that
19 process of admissions, I'd like to think I would be fair, but
12:34 20 quite honestly, I think I'd get a little angry as well. He
21 worked hard, both as an athlete and academically. That does
22 give me some concern, quite honestly. I'd like to think I
23 could be fair and impartial, however, I had that personal
24 reaction.

25 THE COURT: The question isn't what your general

1 concept of the philosophy here is, but whether or not you could
2 decide this case solely on the basis of the evidence that comes
3 into this courtroom and not on any preconceived notions about
4 what the case is about.

5 PROSPECTIVE JUROR: It's not preconceived notions. I
6 think hearing the evidence would cause me to get frustrated and
7 angry given that I went through something personally. I don't
8 know what the evidence is, but if it has anything to do with
9 college admissions and athletics and anything that's happened
10 that was unfair or not truthful, that would cause me to be
11 concerned, yes.

12 THE COURT: So I guess I'm hearing that you don't
13 think you could be fair and impartial in this case.

14 PROSPECTIVE JUROR: Correct. I'd like to think I
15 could be, but I'm concerned.

16 THE COURT: I'm going to excuse you from this case.
17 Thank you for your candor. I hope you will serve on another
18 jury some day.

19 PROSPECTIVE JUROR: Thank you so much. I appreciate
20 it.

21 (Prospective juror exits.)

22 (Prospective juror enters.)

23 THE COURT: Good afternoon, Mr. Torrice. Will you
24 please take your hat off. Thank you. You may be seated.
25 Please understand you remain under oath. You may remove the

1 mask if you want to, but you don't have to.

2 PROSPECTIVE JUROR: Okay.

3 THE COURT: Mr. Torrice, I understand serving on a
4 jury for 4 weeks would cause you financial hardship?

5 PROSPECTIVE JUROR: Yes. This is the busiest time for
6 our industry.

7 THE COURT: I'm not going to cause you financial
8 hardship. I'm going to excuse you from this jury. I hope at
9 another time, maybe a less inconvenient time, maybe in the
10 winter, you'd be willing to serve as a juror. It's an
11 important civic duty.

12 PROSPECTIVE JUROR: I have and I would.

13 THE COURT: I'll excuse you from this jury. Thank
14 you, Mr. Torrice.

15 (Prospective juror exits.)

16 (Prospective juror enters.)

17 THE COURT: Good afternoon, Mr. Kennie. Please be
18 seated. You're reminded you're still under oath. You may
19 remove your mask if you want to.

12:37 20 The questionnaire that you answered, most of the
21 questions were answered no, right?

22 PROSPECTIVE JUROR: Correct.

23 THE COURT: You did answer you had prior jury service.
24 Would you tell me about that.

25 PROSPECTIVE JUROR: In Barnstable county, small claims

1 court.

2 THE COURT: Was that a case that you brought?

3 PROSPECTIVE JUROR: No, although I have had that
4 position also.

5 THE COURT: So you've brought a case in small claims
6 court and had a case brought against you in small claims court?

7 PROSPECTIVE JUROR: No. I served on a jury and also I
8 had brought a case.

9 THE COURT: This was a jury in a small claims court?

12:38 10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Whereabouts was that?

12 PROSPECTIVE JUROR: It was in Barnstable.

13 THE COURT: What was the case about?

14 PROSPECTIVE JUROR: It had something to do with some
15 kind of a vehicle, maybe a mobile home or something like that.
16 There was some issue with transfer of title or some craziness.

17 THE COURT: All of the other questions you answered no
18 to, is that correct?

19 PROSPECTIVE JUROR: I think so.

12:38 20 THE COURT: Is there anything in the questionnaire
21 that gave you pause as to whether or not you can be fair and
22 impartial if you were empanelled on the jury in this case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Any questions, Mr. Kelly?

25 MR. KELLY: Briefly. Good afternoon. My name is

1 Brian Kelly. I represent Mr. Aziz here. A lot of this case
2 will center around college sports. You a college sports fan at
3 all?

4 PROSPECTIVE JUROR: No.

5 MR. KELLY: Okay. There's that. Thanks.

6 THE COURT: Mr. Kendall?

7 MR. KENDALL: Good afternoon. Thank you. No
8 questions, your Honor.

9 THE COURT: Miss Kearney?

12:39 10 MS. KEARNEY: No questions, your Honor.

11 THE COURT: Mr. Kennie, I'll ask you to go into
12 reserve, which means you'll go with Mr. McAlear. You are not
13 to do any research on this case. In the meantime, you may be
14 called back for further jury duty, but please don't do any
15 independent research. Do you understand that?

16 PROSPECTIVE JUROR: I do.

17 THE COURT: Thank you.

18 (Prospective juror exits.)

19 (Prospective juror enters.)

12:40 20 THE COURT: Good afternoon, Miss Foley.

21 PROSPECTIVE JUROR: Good afternoon.

22 THE COURT: Please be seated. You're reminded that
23 you remain under oath. You may remove the mask if you want to,
24 but you don't have to.

25 Miss Foley, I understand you're not employed --

1 PROSPECTIVE JUROR: I am.

2 THE COURT: You baby-sit for a couple grandchildren a
3 few days a week?

4 PROSPECTIVE JUROR: I do.

5 THE COURT: Will service on this jury cause you
6 financial hardship?

7 PROSPECTIVE JUROR: My husband just retired 2 weeks
8 ago. The plan is to not do anything until January.

9 THE COURT: So you're okay.

12:41 10 PROSPECTIVE JUROR: Yeah. We're okay. We're working
11 on my huge salary right now.

12 THE COURT: I don't want to cause you financial
13 hardship. This will be about a 4-week trial.

14 PROSPECTIVE JUROR: It won't be great, but it won't be
15 hardship. I don't know what you call financial hardship.

16 THE COURT: That's the thing. We ask all jurors to
17 undergo inconvenience, sometimes serious inconvenience, but
18 there's a difference between inconvenience and hardship. I
19 don't want to put somebody out of business to serve on a 4-week
12:41 20 trial.

21 PROSPECTIVE JUROR: I see. No. My daughter is
22 self-employed. She just opened her own business. I baby-sit
23 for her children. My husband's retired. It's scary. He's
24 with them today. It is what it is.

25 THE COURT: As far as the employment side goes, you're

1 free to serve on this jury?

2 PROSPECTIVE JUROR: Besides it being a small family
3 business I work for and a small place, yes. I'm not going to
4 lie. Yeah. I guess I could.

5 THE COURT: Again, I don't want to cause you financial
6 hardship. If you tell me it will, I won't make you serve. If
7 it's going to be an inconvenience or serious inconvenience, I'd
8 ask you to undergo that.

9 PROSPECTIVE JUROR: I see. I think I'm on the fence
10 with it. I really am. I don't even know what to say. It
11 would not be the greatest thing.

12 THE COURT: Is there anything else in the
13 questionnaire that gave you pause as to whether or not you
14 could be fair and impartial in this case if you were a juror?

15 PROSPECTIVE JUROR: No, I don't think so, in any case
16 to be honest with you.

17 THE COURT: I guess I then have to pursue my earlier
18 line. If you feel that this would cause you or your family
19 financial distress or hardship, I'm not going to make you serve
12:43 20 on this jury. If, on the other hand, you can do it, and
21 4 weeks is not going to cause you any real problem, then I
22 would ask you to be a candidate to serve on this jury. You
23 have to tell me.

24 PROSPECTIVE JUROR: I have to tell you in an honest
25 way. Right?

1 THE COURT: I think that would be appropriate.

2 PROSPECTIVE JUROR: Then I'm going to have to say I
3 can do it, but driving for 4 weeks and the stress of the
4 driving and all that -- I can do it. I can do it.

5 THE COURT: I will take that as a yes. It's not going
6 to be a serious hardship.

7 PROSPECTIVE JUROR: Not a serious hardship. I can't
8 say that.

9 MR. KELLY: Mr. Kelly, any questions for this juror?

12:43 10 MR. KELLY: Briefly. Brian Kelly. I represent
11 Mr. Aziz here. One of the questions in the questionnaire
12 mentioned you have a son-in-law in?

13 PROSPECTIVE JUROR: My son-in-law is an ATF agent.
14 Kevin Connolly. He's a fire inspector for the state of Maine.

15 MR. KELLY: How about college sports? Are you a
16 college sports fan in any way?

17 PROSPECTIVE JUROR: Is he?

18 MR. KELLY: You.

19 PROSPECTIVE JUROR: Yeah. Sports is always on in my
12:44 20 house. It's rule of the remote.

21 MR. KELLY: Thank you.

22 THE COURT: Mr. Kendall?

23 MR. KENDALL: Good afternoon. Thank you for coming.
24 No questions.

25 THE COURT: Miss Kearney.

1 MS. KEARNEY: Good afternoon, Miss Foley. You had
2 responded to one of the questions in the questionnaire that
3 your husband was a witness to a crime.

4 PROSPECTIVE JUROR: Yes.

5 MS. KEARNEY: Did he have any involvement with that
6 after the fact in terms of --

7 PROSPECTIVE JUROR: What happened was he was on lunch
8 break and he was in a park having his lunch. He looked over.
9 He thought some kids were playing around. It was actual
10 knives. They were having a knife fight. He stopped at the
11 local police before going back and said I saw something. The
12 kids were horsing around. I think it's knives or something. I
13 couldn't tell for sure. It was so scary because he -- they
14 didn't ask anything. They saw his badge. They went to his
15 work and got him. Two years later or three years later he had
16 to go into court, but he didn't recognize anybody, but he had
17 to go into court.

18 MS. KEARNEY: Was anything about that experience cause
19 you to think he wasn't treated fairly by the criminal justice
12:45 20 system?

21 PROSPECTIVE JUROR: No. I don't think so. It just
22 took a couple of years for him to go in.

23 MS. KEARNEY: Anything about that experience cause you
24 to think it would affect your ability to be fair and impartial?

25 PROSPECTIVE JUROR: No. I don't know -- no.

1 MS. KEARNEY: Thank you.

2 THE COURT: Thank you, Miss Foley. I'll ask you to be
3 in reserve, which means you are going to be perhaps called back
4 for further jury duty. In the meantime, please do not talk to
5 anyone about this case or try to do any independent research.
6 That would be inappropriate.

7 PROSPECTIVE JUROR: I definitely won't. Trust me. I
8 know someone will try to get something out of me. Have a nice
9 day.

12:46 10 THE COURT: Thank you.

11 (Prospective juror exits.)

12 (Prospective juror enters.)

13 THE COURT: Good afternoon, Mr. Porter.

14 PROSPECTIVE JUROR: Afternoon.

15 THE COURT: Please be seated. You're reminded that
16 you remain under oath. You may take the mask off if you want
17 to, but you don't have to.

18 PROSPECTIVE JUROR: I'll leave it on if you can hear
19 me.

12:47 20 THE COURT: Mr. Porter, would serving on this jury
21 cause you a financial hardship?

22 PROSPECTIVE JUROR: No.

23 THE COURT: You said someone, it's unclear whether
24 it's you or someone you know, was robbed multiple times as a
25 bank teller. Would you tell me about that.

1 PROSPECTIVE JUROR: I worked for Citizens Bank as a
2 part-time teller for about a year. Over that year I was robbed
3 three times, funny enough.

4 THE COURT: Where was the bank?

5 PROSPECTIVE JUROR: South Weymouth.

6 THE COURT: South Weymouth?

7 PROSPECTIVE JUROR: Next to a Johnny's Foodmaster. I
8 was incorporated into a Johnny's Foodmaster.

9 THE COURT: You worked for them one year?

12:47 10 PROSPECTIVE JUROR: One year.

11 THE COURT: You were robbed three times?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: At gunpoint?

14 PROSPECTIVE JUROR: Just notes or verbal threats, no
15 guns.

16 THE COURT: Did you ever have to appear in court or
17 get involved in the criminal justice system in any way?

18 PROSPECTIVE JUROR: Not in that case. I did have to
19 appear as a witness when I worked as a security officer for
12:48 20 Hanover Mall. It was a drug deal.

21 THE COURT: Would that experience with the criminal
22 justice system in any way affect your ability to be fair and
23 impartial in this case?

24 PROSPECTIVE JUROR: Not that I'm aware of.

25 THE COURT: Is there anything in the questionnaire

1 that gave you pause as to whether you can be fair and impartial
2 in this case?

3 PROSPECTIVE JUROR: No. I think I'm a very impartial
4 person.

5 THE COURT: Mr. Kelly?

6 MR. KELLY: Briefly, your Honor. Good afternoon.
7 Brian Kelly. I represent Mr. Aziz here. You follow college
8 sports at all?

9 PROSPECTIVE JUROR: College sports? No, not really.
10 I'm more of a musician.

11 THE COURT: Mr. Kendall?

12 MR. KENDALL: Good day. No questions. That you.

13 THE COURT: Miss Kearney?

14 MS. KEARNEY: Good afternoon, Mr. Porter. You also
15 said that you had previously served on a jury. Was there
16 anything about that experience that you think would affect your
17 ability to be fair and impartial in this trial?

18 PROSPECTIVE JUROR: No. I think it went all smoothly.
19 It went very well.

12:49 20 MS. KEARNEY: In the case where you were a witness for
21 the drug deal, do you know how that case turned out?

22 PROSPECTIVE JUROR: I believe the defendant ended up
23 doing some time. I'm not a hundred percent. I went to the
24 courtroom that day but never actually appeared as a witness on
25 the stand. They had me in the back room waiting. I think they

1 resolved everything before they needed to call me up.

2 MS. KEARNEY: Thank you.

3 THE COURT: Thank you, Mr. Porter. You are in
4 reserve, as we're saying. You'll go with Mr. McAlear. You may
5 be called back for further jury duty. In the meantime, please
6 do not do any independent research on this case or try to look
7 it up on the internet. That would be inappropriate.

8 (Prospective juror exits.)

9 (Prospective juror enters.)

12:50 10 THE COURT: Good afternoon, Mr. Schilmeister. You
11 remain under oath. You may remove the mask if you want, but
12 you don't have to.

13 Mr. Schilmeister, would serving on this jury cause you
14 financial hardship?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Is there anything in the questionnaire
17 that you had to answer yesterday that gave you cause as to
18 whether you can be fair and impartial in this case?

19 PROSPECTIVE JUROR: No.

12:51 20 THE COURT: In other words, you could decide this case
21 based solely upon the evidence that comes into this courtroom
22 and not on the basis of anything else you may have heard about
23 this case, is that true?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: I understand your father was a lawyer.

1 PROSPECTIVE JUROR: I think so.

2 THE COURT: Do you know what kind of law he practiced?

3 PROSPECTIVE JUROR: No. I'm sorry.

4 THE COURT: Is there anything else that you feel would
5 be an impairment to your being a juror in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Any questions, Mr. Kelly?

8 MR. KELLY: Quickly, my name is Brian Kelly. I
9 represent Mr. Aziz. Thank you for coming in today. Do you
10 follow college sports at all?

11 PROSPECTIVE JUROR: No.

12 MR. KELLY: Thanks.

13 THE COURT: Mr. Kendall?

14 MR. KENDALL: No questions, your Honor.

15 THE COURT: Miss Kearney?

16 MS. KEARNEY: Good afternoon, sir. In your
17 questionnaire, you mentioned that your parents and brother --
18 you might have some concerns about COVID in relation to them.

19 PROSPECTIVE JUROR: Yes, but they've all been fully
12:52 20 vaccinated.

21 PROSPECTIVE JUROR: You also mentioned you might have
22 trouble with crowds. Would you have trouble being in a
23 courtroom with approximately 50 people in it?

24 PROSPECTIVE JUROR: Would it be spread out like this
25 or?

1 MS. KEARNEY: Would you feel comfortable sitting in a
2 jury box with 15 other people?

3 PROSPECTIVE JUROR: Yes.

4 MS. KEARNEY: And with additional people in the back
5 of the courtroom and all the lawyers?

6 PROSPECTIVE JUROR: Uh-hum.

7 MS. KEARNEY: Thank you, sir.

8 THE COURT: Thank you, Mr. Schilmeister. I will have
9 you in reserve. You will go with Mr. McAlear. If you are
10 called for further jury duty, please do not in the meantime do
11 any independent research about the case. You understand that
12 would be inappropriate, right?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Thank you, Mr. Schilmeister.

15 (Prospective juror exits.)

16 THE COURT: Yes, Miss Kearney?

17 MS. KEARNEY: Your Honor, I just wanted to flag that
18 it seems that the prospective juror had a little trouble
19 understanding your questions when you were asking about what
12:52 20 his dad did. So I just wanted to -- we would move to strike.
21 We don't know he'd be able to follow along with the evidence if
22 he was having trouble understanding basic questions like that.

23 THE COURT: Mr. Kelly?

24 MR. KELLY: I would oppose. He said he could be fair
25 and sit through a trial. I saw no reason to strike for cause.

1 THE COURT: Mr. Kendall?

2 MR. KENDALL: I thought he was a particularly
3 conscientious person. He noted he didn't have a problem with
4 crowds. She went through this room, that box, the particulars
5 of it. He was fine. I think he was a very responsible
6 gentleman. He should not be struck for cause.

7 THE COURT: I'm not going to strike him for cause.

8 (Prospective juror enters.)

9 THE COURT: Good afternoon, Mr. Brennan. You may be
10 seated. You may remove your mask if you want to. You are
11 reminded you're under oath.

12 You are self-employed. Would 4 weeks on a trial like
13 this cause you a financial hardship?

14 PROSPECTIVE JUROR: It would be very difficult. I
15 have two customers' houses that are opened up right now. I
16 have to have them buttoned up for the wintertime before I start
17 another project in the wintertime. I'm the individual doing
18 the work. I don't have a crew of people to do the work.

19 THE COURT: I'm not going to cause you financial
12:55 20 hardship. I'll excuse you from this jury. That doesn't excuse
21 you from all jury duty. I hope you will at some point accept
22 your civic obligation of serving on a jury, but I'm not going
23 to require you to sit on this one. You're excused.

24 PROSPECTIVE JUROR: I appreciate that. I have done
25 grand jury service. It was a lot of fun to do.

1 THE COURT: I hope you'll do it again. Thank you,
2 Mr. Brennan.

3 (Prospective juror exits.)

4 (Prospective juror enters.)

5 THE COURT: Good afternoon, Miss Wilcox. Please be
6 seated. You're reminded that you remain under oath. You may
7 take your mask off if you'd like to.

8 PROSPECTIVE JUROR: Thank you.

9 THE COURT: Miss Wilcox, you're retired so I take it
10 service on this jury would not cause you financial hardship; is
11 that fair to say?

12 PROSPECTIVE JUROR: That's correct.

13 THE COURT: Is there anything in the long
14 questionnaire that you had to fill out yesterday that gives you
15 pause as to whether or not you could be fair and impartial in
16 this case?

17 PROSPECTIVE JUROR: No. I do believe that I can be.

18 THE COURT: I see that question 18 you did have prior
19 jury service, right?

12:57 20 PROSPECTIVE JUROR: Yes, in juvenile court.

21 THE COURT: How long ago was that?

22 PROSPECTIVE JUROR: Just about 3 years.

23 THE COURT: 3 years ago. Did you sit on a jury for
24 that case?

25 PROSPECTIVE JUROR: I did, but after the testimony the

1 police dismissed the case.

2 THE COURT: So you never had to deliberate on that?

3 PROSPECTIVE JUROR: Correct.

4 THE COURT: Would that involvement with the criminal
5 justice system impact your ability to be fair and impartial in
6 this case?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Anything on this questionnaire cause you
9 concern that you could not be fair and impartial?

12:57 10 PROSPECTIVE JUROR: No. I was one of the last ones
11 filling out that questionnaire yesterday. I believe I can do
12 it.

13 THE COURT: Mr. Kelly.

14 MR. KELLY: Good afternoon. Brian Kelly. I represent
15 Mr. Aziz here. A few follow-up questions.

16 On your prior case, the judge dismissed the case and
17 the jury didn't deliberate. Do you understand that not all
18 judges dismiss cases and juries do deliberate?

19 PROSPECTIVE JUROR: Absolutely.

12:58 20 MR. KELLY: That would not affect your analysis in
21 this situation?

22 PROSPECTIVE JUROR: Not at all. I will say I think at
23 that point in that case I had already come to that conclusion
24 myself before we had talked.

25 MR. KELLY: There were some answers about the media.

1 I don't know if that means a lot of media or not that you've
2 seen about this case. Have you seen a lot of reports about
3 this case or how much have you seen?

4 PROSPECTIVE JUROR: As I wrote, mostly just early on
5 when it was unavoidable on media because of the Hollywood
6 people in it, but other than that, I don't know anything about
7 it. I did not follow it. As I wrote, the only thing that I
8 noticed about it is what a coincidence when the Boston Globe
9 article about this trial was going to start next week and I
10 said, oh, my, I have jury selection this week and it's possible
11 that that's what it's for. That's my only connection with it.
12 So I haven't studied it or anything.

13 MR. KELLY: Nothing about what you've seen to date
14 would affect your ability to be fair to the defense and the
15 government in this case?

16 PROSPECTIVE JUROR: Absolutely not.

17 MR. KELLY: Whatever the media reported, that's the
18 media?

19 PROSPECTIVE JUROR: It's gone. Media, I don't -- I
01:00 20 don't trust all the media anyway.

21 MR. KELLY: Fair point. Are you the retired math
22 professor or your husband?

23 PROSPECTIVE JUROR: My husband is the math professor.

24 MR. KELLY: Where was he a professor at?

25 PROSPECTIVE JUROR: Wellesley College.

1 MR. KELLY: Sport college sports fan at all?

2 PROSPECTIVE JUROR: No. Red Sox and Patriots. I
3 don't watch college sports.

4 MR. KELLY: Thank you.

5 THE COURT: Mr. Kendall?

6 MR. KENDALL: Thank you, your Honor. Good afternoon.
7 I'm Mike Kendall. I represent John Wilson. I just wanted to
8 ask you questions on one topic. You have extensive career
9 experience in higher education, as does your husband. Did you
01:00 10 have particular observations about fundraising at schools and
11 what you thought of it and if it's left any impression on you?

12 PROSPECTIVE JUROR: I wasn't involved in the
13 fundraising. I was involved in giving away the money from the
14 gifts and the stewardship and the endowments. I know that the
15 fundraisers work hard to make connections with the donors,
16 potential donors. Can you repeat your question, please.

17 MR. KENDALL: Yes. It was maybe a little bit vague.
18 I'm sorry. Based upon your career experience, do you have any
19 opinions or observations about university fundraising that are
01:01 20 in your mind that sort of shape how you view the situation?

21 PROSPECTIVE JUROR: I think it's a necessary part of
22 higher education in this country because the colleges need the
23 money fundraised in order to provide both academic and social
24 things for all the students, as well as funds for students who
25 can't afford to pay it themselves, and also for attracting

1 smart kids and talented kids in whatever they're talented in.
2 Could be sports. Could be they're a good obo player and they
3 need an obo player in the orchestra or whatever. There are
4 some kids who are smart and talented and don't have the money
5 background, so funds contributed go to everybody, people who
6 can pay their way, people that can't. That all is part of why
7 colleges seek donations.

8 MR. KENDALL: Thank you very much. Thank you, your
9 Honor.

01:03 10 THE COURT: Miss Kearney.

11 MS. KEARNEY: Good afternoon, Miss Wilcox. Your role
12 in the financial aid office, what was it?

13 PROSPECTIVE JUROR: It was to analyze family financial
14 strength, using a formula that is both the federal formula for
15 financial aid eligibility and the college's formula for
16 determining eligibility and analyzing families. The words we
17 would tell the families ourselves would be your financial
18 strength, basically your ability to contribute to your child's
19 education here. We would determine a number. If there was a
01:04 20 difference between that number and what the cost of the year at
21 the college, we would make that up. Where I worked, we were a
22 full lead institution. We would offer a package of loans and
23 work and scholarship grants. So it was need based.

24 I want to point out it was after the admissions
25 decision was already done. We had nothing to do with who is

1 admitted. It was when the admissions office gave us a name and
2 then we would start to develop an aid package.

3 MS. KEARNEY: In your position, did you do any work
4 with Pell grants?

5 PROSPECTIVE JUROR: We would determine it's just a
6 push of the button on the computer and it would tell us if the
7 student was eligible for a Pell grant. Then we would put it in
8 their aid package.

9 MS. KEARNEY: Would you have any difficulty in
01:05 10 listening to evidence regarding Pell grants here and separating
11 that from your previous experience with Pell grants?

12 PROSPECTIVE JUROR: Oh, I'd have no difficulty, no. I
13 think since I understand what it is, I would probably
14 understand it well.

15 MS. KEARNEY: But do you understand that you would be
16 limited to the evidence that's presented to you regarding Pell
17 grants and not bring in your prior, I don't want to say
18 experience, but your prior understanding of how they work?

19 PROSPECTIVE JUROR: Yes. I'd be fine.

01:06 20 MS. KEARNEY: You mentioned in your prior jury service
21 that you had already come to a conclusion even before the case
22 was dismissed.

23 PROSPECTIVE JUROR: After all the testimony I remember
24 thinking I don't think that testimony is enough to do anything
25 against this defendant, and that was just my response. Then

1 the next thing I knew, that's what the judge said. I think
2 that's why I remember it so well. I said, well, I guess I did
3 okay because that's what the judge said afterwards.

4 MS. KEARNEY: Do you understand here the evidence will
5 come in over the course of several weeks and that at the end of
6 the trial, the judge will be instructing you on what the law
7 is? Are you prepared to follow those instructions and not form
8 an opinion in advance?

9 PROSPECTIVE JUROR: Absolutely.

01:07 10 MS. KEARNEY: Then you also disclosed a Facebook post
11 you made. Can you tell us a little bit more about that
12 Facebook post.

13 PROSPECTIVE JUROR: I was candid because it says
14 you're under oath and did you post anything. I said there's a
15 Boston Globe article and it's about a trial coming to federal
16 court and I'm coming to federal court for jury selection. Then
17 I said maybe, and that was it.

18 MS. KEARNEY: Did anyone comment in response to your
19 post?

01:08 20 PROSPECTIVE JUROR: They might have put an emoji with
21 a wow sign or something, but no comments.

22 MS. KEARNEY: Thank you.

23 THE COURT: Thank you, Miss Wilcox. I'm going to ask
24 you to go into reserve, which means that you will go with
25 Mr. McAlear. You may or may not be called back for further

1 jury duty. In the meantime, please do not do any independent
2 research. You understand how important that is. Thank you.

3 (Prospective juror exits.)

4 THE COURT: Counsel, I'm going to come back at five
5 past two. My plan is to go through the process like we're
6 going until three or 3:30, depending on how many more reserves
7 we get. I don't think we're going to be able to get all of
8 them today. We'll plan to do this once again tomorrow morning.
9 I am now confident that we're going to be able to have a
01:09 10 sufficient number sometime by mid morning tomorrow.

11 Later on that day we're going to go to that next
12 phase, that is we will invite all of those who have not been
13 stricken and are so-called clear jurors back into the
14 courtroom. It will be at least 40 individuals. You will be
15 able to exercise your peremptory challenges as previously
16 mentioned. I think we will end up with a jury before the close
17 of business tomorrow.

18 Anything else that needs to come to my attention
19 before we recess for lunch? Mr. Kelly?

01:09 20 MR. KELLY: No, your Honor.

21 THE COURT: Mr. Kendall?

22 MR. KENDALL: No, your Honor.

23 THE COURT: Miss Kearney?

24 MS. KEARNEY: No, your Honor.

25 THE COURT: We are in recess until --

1 MR. MCALEAR: Jurors are downstairs at lunch. If
2 counsel goes downstairs, just keep in mind there are jurors all
3 over the place.

4 THE COURT: Please do not have any conversations with
5 those jurors. It would not only appear to be inappropriate, it
6 would be inappropriate. It's best to keep your distance from
7 any potential jurors during this next hour.

8 MR. MCALEAR: As well as conversations.

9 THE COURT: Conversations among yourselves should be
01:10 10 restricted. Those in reserve are still here?

11 MR. MCALEAR: No.

12 THE COURT: They've been given the little blurb
13 devised.

14 And we're in recess until five past two.

15 (Recess taken 1:11 p.m. to 2:07 p.m.)

16 THE COURT: Counsel, we do need to plan on the second
17 tranche. I don't think we're going to need as many people
18 tomorrow as we called in today. What progress, if any, has
19 counsel made with respect to this second group of 104?

02:08 20 MR. KELLY: Not much, your Honor. I think we're going
21 to confer after this group. The government has a list of ones
22 they think should be stricken for scheduling reasons. We'll
23 see if we can match that up, at least with respect to maybe the
24 first 50.

25 THE COURT: There is some concern by the jury

1 coordinator holding the ones that we have. We have 31 left.
2 If we only go through 20 and leave 10, we have 10 very
3 disgruntled folks that sat around all day and have not been
4 heard. We could press on. I had planned on recessing at 3:30.
5 If we only have five or eight left, it may make sense to go
6 through and complete all that are here today. Any thoughts
7 about that?

8 MR. KENDALL: We like that, your Honor.

9 THE COURT: Are you speaking for Mr. Kelly?

02:09 10 MR. KELLY: I'll let him say. If it's only a handful,
11 we can quickly look through the questions as well. He could
12 press on. Of the remaining 31, we only need 16. That would
13 get us to 40.

14 THE COURT: It will be close. Let's go forward.
15 We'll perhaps revisit this issue halfway through the session at
16 3 o'clock.

17 (Prospective juror enters.)

18 THE COURT: Good afternoon, Miss Uriot. You're
19 reminded that you remain under oath. You may remove your mask
02:10 20 if you want to, but you don't have to.

21 Miss Uriot, you're employed by a fire department?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: If you were to be called as a juror for
24 4 weeks, would that cause you financial hardship?

25 PROSPECTIVE JUROR: Not financial hardship. It would

1 be hard on the department to fill my position.

2 THE COURT: They don't have anyone who can act as a
3 dispatcher in the meantime?

4 PROSPECTIVE JUROR: They would have to hire someone
5 overtime.

6 THE COURT: As I've said many times before today, I
7 don't want to cause hardship to the potential juror. We do, of
8 course, ask you to undergo inconvenience. We ask the town of
9 Attleboro to undergo inconvenience with the prospect of one of
02:11 10 their employees serving on a jury. I'm not too concerned about
11 that so long as it's not going to be to your detriment. I
12 don't want to jeopardize your employment or anything else.

13 You mentioned in response to the question about the
14 government's having to prove guilt beyond a reasonable doubt
15 that you thought the defendant should be able to prove
16 themselves innocent if innocent. In other words, you think you
17 ought to take the stand?

18 PROSPECTIVE JUROR: The question kind of confused me.
19 I just meant if they're innocent, they should be able --

02:12 20 THE COURT: I'm sorry. I can't hear you.

21 PROSPECTIVE JUROR: I was confused by that question.
22 I meant if they are innocent, they should be able to prove that
23 they're innocent.

24 THE COURT: You understand that under our system of
25 justice, a defendant has no obligation to testify and has an

1 absolute constitutional right to remain silent and that it is
2 the burden of the government to prove its case beyond a
3 reasonable doubt? Do you have any problem with following that
4 rule of law?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Could you base your decision on this case
7 only on evidence that comes into this courtroom and not on any
8 outside feelings you may have?

9 PROSPECTIVE JUROR: Yes.

02:13 10 THE COURT: Mr. Kelly.

11 MR. KELLY: Just to follow-up briefly. Good
12 afternoon. I'm Brian Kelly. I represent Mr. Aziz.

13 On that question there, you disagree that the
14 government should have the burden of proof. You said the
15 defendant should be able to prove themselves innocent?

16 PROSPECTIVE JUROR: Prove themselves innocent.

17 MR. KELLY: What do you mean by that?

18 PROSPECTIVE JUROR: If they are innocent, they should
19 be able to prove themselves innocent?

02:13 20 MR. KELLY: If they're innocent, they should be able
21 to prove it when you have a trial.

22 PROSPECTIVE JUROR: Correct.

23 MR. KELLY: Even if the presumption of innocence is
24 there, you think they have some duty at least to prove
25 themselves innocent if they're really innocent?

1 PROSPECTIVE JUROR: Yes, sir.

2 MR. KELLY: Are you a college basketball fan?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Mr. Kendall.

5 MR. KENDALL: Good afternoon. I'm Mike Kendall. I
6 represent John Wilson.

7 I wanted to follow-up a little bit on question 24.

8 You work at the Attleboro Police. Now that you've moved over
9 to Fire, you're still friends with the folks at the Attleboro
02:14 10 Police. With your work experience, have you developed any view
11 about criminal trials or the criminal trial process?

12 PROSPECTIVE JUROR: Not so much, just kind of, as long
13 as it's a fair trial, then that's all that matters.

14 MR. KENDALL: Do you have any view about how the
15 system works or people's roles or how things happen there?

16 PROSPECTIVE JUROR: No.

17 MR. KENDALL: Thank you.

18 THE COURT: Miss Kearney.

19 MS. KEARNEY: Good afternoon. I just wanted to
02:14 20 follow-up. Will you have any problem following the judge's
21 instructions in the case?

22 PROSPECTIVE JUROR: No.

23 MS. KEARNEY: So if he instructs you the government
24 has the burden of proof, you'll be able to follow that
25 instruction?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Thank you, Miss Uriot. I'm going to ask
3 you to be in reserve, which means you're going to go with
4 Mr. McAlear. You may be subject to recall to become a juror in
5 this case. In the meantime, please do not do any independent
6 research. That would be inappropriate. You're going to decide
7 this case, if you are chosen to be a juror, solely on the
8 evidence that comes into this courtroom. Okay?

9 PROSPECTIVE JUROR: Yes.

02:15 10 (Prospective juror exits.)

11 MR. KELLY: Your Honor, on this juror, we'd move to
12 strike for cause. I think it's clear she has predisposition to
13 think the defendant has to prove he's innocent. The Court gave
14 a pretty clear instruction to her and within 15 seconds she's
15 telling me, I do think if he's innocent, he should prove
16 himself innocent. That's obviously at odds with the
17 fundamental presumption of innocence in our system and we have
18 no burden. I think someone who's worked in the police
19 department, who is on the stand here in federal court and is
02:16 20 repeating again what she said in her questionnaire, it's pretty
21 clear that she'll not be able to set aside her view, her
22 validly held view that if someone's innocent, they should prove
23 it. That's a problem. We move to excuse for cause, your
24 Honor.

25 MS. KEARNEY: Your Honor, she confirmed both to you

1 and to my follow-up questions that she would not have a problem
2 following your instructions, including that instruction that
3 the government has the burden of proof. Regarding her
4 connections to law enforcement, she did work at a police
5 department but she's not in law enforcement herself and in
6 response to questions on that topic, she said she just wanted a
7 fair trial.

8 THE COURT: I'm not going to excuse her for cause.
9 The objection is overruled. Call our next potential juror.

02:17 10 (Prospective juror enters.)

11 THE COURT: Good afternoon, Miss Montes. Is that how
12 you pronounce your name?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: You're reminded you are under oath. You
15 may remove your mask, if you want to. Miss Montes, do I
16 understand that you will not have a financial hardship if you
17 serve on this jury for about 4 weeks?

18 PROSPECTIVE JUROR: That is correct.

19 THE COURT: But you've also mentioned you commented on
02:18 20 Facebook about this case at one stage.

21 PROSPECTIVE JUROR: I did.

22 THE COURT: Tell me about that.

23 PROSPECTIVE JUROR: It was something on the news.
24 Someone had just gotten community service. Somebody else had
25 posted about an African-American woman who served jail time. I

1 was a little taken aback by the disparity.

2 THE COURT: Do any of those answers you gave on your
3 questionnaire give you pause as to whether or not you could be
4 fair and impartial in this case and decide this case solely on
5 the evidence that comes into the courtroom?

6 PROSPECTIVE JUROR: No.

7 THE COURT: So you believe you can do that?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: And you mentioned a connection to law
02:19 10 enforcement.

11 PROSPECTIVE JUROR: A family friend.

12 THE COURT: Would being friendly with a law
13 enforcement officer affect your ability to be fair and
14 impartial in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Somebody was arrested or charged with a
17 crime in your family?

18 PROSPECTIVE JUROR: On my father's side of the family,
19 we're not very close, but I understand there are people who
02:19 20 have gone to jail, yes.

21 THE COURT: You don't know them well?

22 PROSPECTIVE JUROR: I don't know them well. They're
23 people in our community. It happens.

24 THE COURT: Were you involved in any of the criminal
25 process that was taken against them?

1 PROSPECTIVE JUROR: No.

2 THE COURT: Would that involvement with the criminal
3 justice system affect your ability to be fair and impartial in
4 this case?

5 PROSPECTIVE JUROR: I don't believe so.

6 THE COURT: Mr. Kelly, any questions for this
7 potential juror?

8 MR. KELLY: Sure. Good afternoon. My name's Brian
9 Kelly. I represent Mr. Aziz. Quick follow-up, please.

02:20 10 With respect to the media coverage you saw about this
11 case, what exactly do you recall seeing?

12 PROSPECTIVE JUROR: I don't recall it right now off
13 the top of my head. I think this was when the news first
14 broke. I can't even tell you how long ago that was. I try to
15 stay away from social media when I can. It's something we try
16 to teach our children.

17 MR. KELLY: You did comment publicly on Facebook about
18 this case?

19 PROSPECTIVE JUROR: It was whatever was on the news
02:20 20 about it, yes. I think it was when I was briefly going through
21 it -- what I remember, I haven't gone back, but what I remember
22 was there was some news coverage about someone receiving
23 community service, but there was another person who had gotten
24 actual jail time. What my concern was was the disparity.

25 MR. KELLY: Right. And so you usually try to avoid

1 social media but in this case in this instance you felt
2 strongly enough about it to comment on this case, right?

3 PROSPECTIVE JUROR: That situation, yes.

4 MR. KELLY: On Facebook, for all to see, right?

5 PROSPECTIVE JUROR: Yes.

6 MR. KELLY: You gave an answer about how wealth should
7 not change fairness. What did you mean by that?

8 PROSPECTIVE JUROR: I think the question that was
9 posed was -- if you could repeat the question.

02:21 10 MR. KELLY: Sure. There's a lot of questions on here.

11 PROSPECTIVE JUROR: I want to be accurate.

12 MR. KELLY: It says "do you have any opinion about
13 wealth". This is question 43. "Do you have any opinions about
14 wealthy and/or successful people that would impact your ability
15 to decide this case impartially on the evidence presented and
16 the law as stated by the Court?" You said no. Then you wrote
17 a comment that said "wealth should not change fairness."

18 PROSPECTIVE JUROR: The comment is directed as
19 everyone should be judged at the same level. So the question
02:22 20 almost states, like, because someone is wealthy you should look
21 at them differently, whether favorably or negatively. That
22 shouldn't enter into -- that shouldn't be part of the process
23 is the way that I read that question.

24 MR. KELLY: So someone's economic status should be
25 irrelevant.

1 PROSPECTIVE JUROR: Exactly.

2 MR. KELLY: That's it, your Honor.

3 THE COURT: Mr. Kendall.

4 MR. KENDALL: Yes, please, your Honor. Good
5 afternoon. My name's Mike Kendall. I represent Mr. Wilson.

6 I have a question about your answer to question nine.
7 You described your job as being an executive assistant, looks
8 like in healthcare.

9 PROSPECTIVE JUROR: I'm what you call a
02:23 10 jack-of-all-trades. I worked at the C level suite. To go back
11 to the gentleman's comment earlier about I work with very
12 wealthy people, these things don't have one to do with the
13 other.

14 MR. KENDALL: You're getting right to my point. Thank
15 you. What type of work do you do there?

16 PROSPECTIVE JUROR: Presently I work for a CMO, chief
17 medical officer, for a pharmaceutical company.

18 MR. KENDALL: In the past, what type of executives
19 have you worked with?

02:23 20 PROSPECTIVE JUROR: I worked for a technology firm
21 where I supported a whole C level suite, everything from the
22 CEO to the CFO. I worked at another technology firm. I've
23 worked for a company that dealt in bitcoin where I supported
24 the CEO and the chief marketing officer.

25 MR. KENDALL: Who did you work with at Steward?

1 PROSPECTIVE JUROR: The head of urology there. I
2 helped run his office and fellowship program.

3 MR. KENDALL: What type of schedule?

4 PROSPECTIVE JUROR: Everything from patient -- you see
5 people from all different walks of life. So everything from
6 working with the patients to working with the fellows and their
7 programs, all things.

8 MR. KENDALL: Moving more to the C suites and not the
9 Steward job, was that helping the executives manage everything
02:24 10 that came in?

11 PROSPECTIVE JUROR: I would do anything. The way I
12 describe it is I'm your office wife. I make sure you do what
13 you need to get done and I make sure it looks seamlessly from
14 the outside.

15 THE COURT: Miss Kearney.

16 MS. KEARNEY: No questions, your Honor.

17 THE COURT: Thank you, Miss Montes. I'm going to ask
18 you to be in reserve. You may be called back. In the
19 meantime, please do not any outside research on the this case,
02:24 20 which would be inappropriate. If you're ultimately selected as
21 a juror, you're going to decide the case based on evidence that
22 comes into this courtroom and not anything from the outside.
23 Thank you.

24 (Prospective juror exits.)

25 THE COURT: Counsel, I've just been notified that Miss

1 Uriot, who was just the one we previously examined has gone
2 back down and found out that there's been a death in her family
3 and that there will be a funeral next week. It doesn't sound
4 like a close family member, but she'll have to attend a funeral
5 next week. Do you want me to call her back and get anymore
6 detail on that? What is the position of counsel?

7 MR. KELLY: I think she should be excused. I don't
8 want to question her.

9 THE COURT: Mr. Kendall?

02:26 10 MR. KENDALL: He's speaking for the loyal we.

11 THE COURT: Miss Kearney?

12 MS. KEARNEY: Your Honor, if it would be possible to
13 call her back and get some more details.

14 MR. KELLY: On the last one, Judge, 77, she's probably
15 commented on this very case so Aziz would move to strike her.
16 She's on Facebook publically commenting on this case. I'm
17 concerned this case is going to generate some publicity and I'm
18 concerned that she's already weighed in publicly on social
19 media.

02:27 20 THE COURT: Miss Kearney?

21 MS. KEARNEY: Your Honor, she said everyone should be
22 judged at the same level and said she could be impartial.

23 THE COURT: I don't see that the comment renders her
24 ineligible to be a juror. Lots of people make lots of comments
25 on Facebook. I don't find this one to be indicative of having

1 made up her mind on the case. I examined her under oath. I
2 find her to be credible. I'm not going to excuse her for
3 cause.

4 (Prospective juror enters.)

5 THE COURT: Good afternoon, Mr. Hicks. You may be
6 seated. You're reminded you're under oath. You can remove
7 your mask if you want to.

8 I understand one of the questions, I guess the last
9 question that you answered, you expressed a suggestion that you
02:28 10 were not sure whether you could give the defendants a fair
11 trial.

12 PROSPECTIVE JUROR: Well, I know quite a bit about the
13 case, the scandal in general. I just know that a lot of the
14 people seem to be pleading guilty right at the beginning,
15 meaning to me that means the evidence is overwhelming, at least
16 for one of them. I believe this is the first one that's gone
17 to trial.

18 THE COURT: Excuse me?

19 PROSPECTIVE JUROR: I believe this is the first one
02:29 20 that's gone to trial that I have read about. In my mind, I'm
21 thinking.

22 THE COURT: You understand every defendant has an
23 independent right.

24 PROSPECTIVE JUROR: I know. I know. I tell myself
25 that. Until this trial, I just assumed, not having a vested

1 interest.

2 THE COURT: You believe you probably made up your
3 mind?

4 PROSPECTIVE JUROR: I think it's going to be hard to
5 overcome it with a preexisting notion.

6 THE COURT: I'm going to excuse you from this jury.
7 Thank you. I hope you will serve on a jury at a future time in
8 another case because it's an important civic duty. I'll excuse
9 you from this jury.

02:30 10 (Prospective juror exits.)

11 THE COURT: Bring the juror back in. This is number
12 76.

13 (Prospective juror enters.)

14 THE COURT: Miss Uriot, I understand you heard some
15 bad news in your family, is that right?

16 PROSPECTIVE JUROR: It's my sister-in-law's mother.
17 She passed away on Tuesday.

18 THE COURT: Sister-in-law's mother.

19 PROSPECTIVE JUROR: Yes.

02:31 20 THE COURT: Were you close to her?

21 PROSPECTIVE JUROR: I'm close to my sister-in-law.

22 THE COURT: So you feel obligated that you have to
23 attend the funeral?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Or that you would want to attend the

1 funeral.

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: You don't happen to know when that's going
4 to be?

5 PROSPECTIVE JUROR: No.

6 THE COURT: I expect you would request to be excused?

7 PROSPECTIVE JUROR: I guess so, if that's.

8 THE COURT: Not knowing the day, we are scheduled to
9 start the trial next week. We're going to not have a session
02:31 10 next Thursday. If it happened to be on Thursday, that would
11 not conflict, but without knowing, it would be difficult. I
12 don't want to excuse you unless you want to be excused.

13 PROSPECTIVE JUROR: It's just something that I feel is
14 important. I didn't want to use it as an excuse either.

15 THE COURT: I understand. You feel without knowing
16 what day it is that you need to be excused.

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: You're excused, Miss Uriot. Thank you
19 very much.

02:32 20 Call the next.

21 (Prospective juror exits.)

22 (Prospective juror enters.)

23 THE COURT: Good afternoon, Miss Dodd.

24 PROSPECTIVE JUROR: Good afternoon.

25 THE COURT: Please be seated. You are reminded that

1 you remain under oath. You may remove your mask if you want
2 to, but you don't have to.

3 Miss Dodd, the only question I believe that you
4 answered affirmatively or at least I have noted here is that
5 you have a moderate knowledge about the case and its coverage.
6 Would any of that knowledge affect your ability to be fair and
7 impartial in this case?

8 PROSPECTIVE JUROR: No.

9 THE COURT: In other words, you are convinced that you
02:33 10 can decide this case based solely on the evidence that comes
11 into this courtroom and not on the basis of any news you've
12 heard about it?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Was there anything else in the
15 questionnaire that gave you pause that you would not be able to
16 render a verdict fairly and without bias?

17 PROSPECTIVE JUROR: No.

18 THE COURT: Thank you. Mr. Kelly, any questions?

19 MR. KELLY: Briefly. Good afternoon. Brian Kelly. I
02:33 20 represent Mr. Aziz.

21 Some of this case will involve testimony about college
22 sports. Do you follow college sports at all?

23 PROSPECTIVE JUROR: No.

24 MR. KELLY: That's it.

25 THE COURT: Mr. Kendall.

1 MR. KENDALL: Good afternoon. Mike Kendall. I
2 represent John Wilson.

3 Just wanted to ask you about question 9, where you
4 describe your employment as associate product management at
5 J.P. Morgan. Can you tell us what you do.

6 PROSPECTIVE JUROR: Sure. I work at J.P. Morgan for
7 5 years now, ever since I graduated school in the defense
8 services space. My current role is in product management. We
9 work with new clients, RFPs, client reprices, basically, the
02:34 10 pricing strategy.

11 MR. KENDALL: What type of clients?

12 PROSPECTIVE JUROR: Asset management.

13 MR. KENDALL: You don't work with retail people?

14 PROSPECTIVE JUROR: I don't.

15 THE COURT: Miss Kearney?

16 MS. KEARNEY: No questions.

17 THE COURT: You may step down. I'm going to have you
18 in reserve, which means you may be called back at some time.
19 Please understand you're not to do any research about this case
02:35 20 or go online or learn anything about it. That would be
21 inappropriate. You're going to decide this case, if you are
22 selected as a juror, based on the testimony that comes into
23 this courtroom. Okay?

24 PROSPECTIVE JUROR: Thank you.

25 (Prospective juror exits.)

1 (Prospective juror enters.)

2 THE COURT: Good afternoon, Miss Bettencourt.

3 PROSPECTIVE JUROR: Good afternoon.

4 THE COURT: Please be seated. You're reminded that
5 you remain under oath. You may remove your mask if you want,
6 but you don't have to. I understand you have answered some
7 questions on the questionnaire that will need to be clarified.

8 Number 43, which asks you about wealthy people and
9 what you think of them, you said you think that money can buy
02:36 10 an advantage in many aspects of life. Is that in any way going
11 to affect your ability to be fair and impartial in this case,
12 which involves allegations against people who are of some
13 wealth?

14 PROSPECTIVE JUROR: No. I don't think so. It's a
15 fact. I, myself, have advantages that others don't have based
16 on just wealth and jobs and things. So to say that -- I just
17 couldn't say that there's not a difference. There is.

18 THE COURT: Can you tell me that you will decide this
19 case solely based on the evidence that comes into this
02:37 20 courtroom and not on any preconceived notions you have of
21 people of wealth?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Also, with respect to that next question
24 regarding prejudice against a defendant who may choose not to
25 testify, you say you understand that that's a right and that

1 there are strategic aspects, but you're not sure how you would
2 feel if you heard the case. You understand that all defendants
3 have a constitutional right not to testify, that it is the
4 government's burden to prove a case beyond a reasonable doubt,
5 and the defendants do not have to present any evidence or
6 testify and that that is the law?

7 PROSPECTIVE JUROR: Yes.

8 THE COURT: If I were to instruct you on that, will
9 you follow my instruction?

02:38 10 PROSPECTIVE JUROR: Yes.

11 THE COURT: So this matter that you are concerned
12 about, whether or not a defendant testifies, you understand
13 when you're deliberating that, you can't consider that when you
14 deliberate the case?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Is there anything else in that
17 questionnaire that gives you pause that you might not be able
18 to be fair and impartial in this case?

19 PROSPECTIVE JUROR: No.

02:38 20 THE COURT: Mr. Kelly, any questions?

21 MR. KELLY: Yes. Good afternoon. My name's Brian
22 Kelly. I'm here with my client Mr. Aziz.

23 Let me follow-up on that question. In response to
24 that question, 44 -- there's a whole bunch of questions. When
25 it said "the defendant in a criminal case has an absolute right

1 not to testify, would you hold it against the defendants if
2 they did not testify in this case", you say "I don't know. I
3 understand it is a right and there are strategies, but I don't
4 know how I feel until I heard the entire case."

5 PROSPECTIVE JUROR: Right.

6 MR. KELLY: Can you tell me what you're thinking with
7 that response.

8 PROSPECTIVE JUROR: I guess I was filling out the
9 questionnaire and was feeling that I should try to answer as
02:39 10 honestly as possible. When I was reading the question, I was
11 thinking about how would I feel. I guess I was saying that
12 it's hard to predict the future because I wouldn't know until I
13 actually heard a case. I guess that's why I was trying to say
14 that I understand that that's -- I understand that they don't
15 have to testify. It doesn't mean anything per se. It's not
16 not testifying means guilty. I know that's not what it means.
17 It's more like hearing the full story.

18 MR. KELLY: So you're not trained in the law
19 obviously?

02:40 20 PROSPECTIVE JUROR: No. You can tell by my response?

21 MR. KELLY: If the judge were to instruct you, look,
22 this is the law that defendants are presumed innocent and the
23 burden of proof is on the government and the defendant doesn't
24 have to prove anything, you could follow that instruction?

25 PROSPECTIVE JUROR: Sure.

1 MR. KELLY: If he were to instruct you that nothing
2 can be inferred or understood from a defendant's not
3 testifying, you could follow that instruction?

4 PROSPECTIVE JUROR: Yes.

5 MR. KELLY: Your first thought or your first reaction
6 to that questionnaire, you could put that aside?

7 PROSPECTIVE JUROR: Yes. Yeah. I would be able to
8 follow the instructions.

9 MR. KELLY: That's it. Thanks.

02:41 10 THE COURT: Mr. Kendall.

11 MR. KENDALL: I'm fine. Thank you.

12 THE COURT: Miss Kearney?

13 MS. KEARNEY: Good afternoon, Miss Bettencourt. In
14 your questionnaire, you said you previously served on a
15 criminal jury but they were unable to reach a verdict. Can you
16 elaborate a little bit on that?

17 PROSPECTIVE JUROR: No. I ended up being the
18 alternate.

19 MS. KEARNEY: Thank you.

02:41 20 THE COURT: Thank you, Miss Bettencourt. I'm going to
21 ask you to be in reserve, which means you may or may not be
22 called back for further duty. In the meantime, I instruct you
23 not to do any independent research on this case. That would be
24 not appropriate because if you are ultimately chosen as a juror
25 in this case, you're going to decide on the evidence that comes

1 into this courtroom and nothing else, right?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Thank you, Miss Bettencourt.

4 (Prospective juror exits.)

5 (Prospective juror enters.)

6 THE COURT: Good afternoon, Miss Schroth.

7 PROSPECTIVE JUROR: Schroth.

8 THE COURT: Please be seated. Understand you remain
9 under oath. You may remove your mask, but you don't have to.

02:42 10 Miss Schroth, do I understand you believe it might be
11 a hardship to serve on this jury for 4 weeks?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: That's because you have young children at
14 home without an ability to see that they're taken care of?

15 PROSPECTIVE JUROR: My husband has travel planned so
16 it would be difficult with him away.

17 THE COURT: I don't want to cause you hardship. If
18 it's going to be a hardship to you, I'm going to excuse you
19 from this jury. I wanted to understand that's what you're
02:43 20 asking me to do.

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Then you are excused, Miss Schroth. Thank
23 you very much.

24 (Prospective juror exits.)

25 (Prospective juror enters.)

1 THE COURT: Good afternoon, Miss Roberts. Please be
2 seated. Understand that you remain under oath. You may remove
3 your mask if you want to, but you don't have to.

4 Miss Roberts, would serving on this jury cause you a
5 financial hardship?

6 PROSPECTIVE JUROR: No.

7 THE COURT: You did answer a question, number 42, with
8 respect to cooperators, that you were unsure whether you could
9 fairly and impartially consider a cooperator's testimony.
02:44 10 Would you explain that or embellish on that a little bit.

11 PROSPECTIVE JUROR: I was unsure of what the question
12 meant when I read it.

13 THE COURT: You understand that some people cooperate
14 with the government and they get a break on what they're
15 charged with or the sentence they have to serve, but they are
16 required to testify truthfully under oath and if they don't do
17 that, it can be subject to prosecution for perjury. Do you
18 understand the government has a right to use people who
19 cooperate, and would you be able, notwithstanding your answer,
02:45 20 to be fair and impartial in this case?

21 PROSPECTIVE JUROR: I think so.

22 THE COURT: Are you sure about that?

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: Mr. Kelly, do you have any questions for
25 Miss Roberts?

1 MR. KELLY: Yes. Good afternoon. Name's Brian Kelly.
2 I represent Mr. Aziz here.

3 Quick question for you. There's one question in this
4 pretty lengthy questionnaire where you indicated you've seen
5 some local news media about the case. Can you just tell me
6 about this.

7 PROSPECTIVE JUROR: Not about this case. I usually
8 only watch the Channel 5 news.

9 MR. KELLY: That's simplifies my question. Thank you.
02:46 10 Do you follow college sports at all?

11 PROSPECTIVE JUROR: No.

12 MR. KELLY: Nothing further.

13 THE COURT: Mr. Kendall.

14 MR. KENDALL: Good afternoon. Thank you. No. I
15 don't have any questions.

16 THE COURT: Miss Kearney?

17 MS. KEARNEY: Good afternoon, Miss Roberts. One
18 question for you. On your questionnaire, you said you
19 previously served on a jury. Is there anything about that
02:46 20 experience that would affect your ability to be fair and
21 impartial?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Thank you, Miss Roberts. I will ask you
24 to be in reserve. That means you may be called back to serve
25 on this jury. In the meantime, you're not to do any

1 independent research. That would be entirely inappropriate. I
2 think you understand why. You're going to decide this case, if
3 chosen as a juror, solely on the basis of the evidence that
4 comes into this courtroom. Okay? Thank you.

5 (Prospective juror exits.)

6 (Prospective juror enters.)

7 THE COURT: Good afternoon, Miss Murphy. You may be
8 seated. You're reminded that you remain under oath. You may
9 remove the mask if you want to, but you don't have to.

02:47 10 Miss Murphy, would serving on this jury cause you any
11 financial hardship?

12 PROSPECTIVE JUROR: It may if I'm out of work for a
13 long time.

14 THE COURT: Well, we expect that the case will last
15 about 4 weeks. I'm confident it will be over by the middle of
16 October. Would that cause you such financial problems that you
17 would feel that you couldn't serve?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Then I will excuse you because I don't
02:48 20 want to cause you financial hardship.

21 PROSPECTIVE JUROR: Thank you.

22 THE COURT: If that would cause that, then you're
23 excused.

24 PROSPECTIVE JUROR: Thank you.

25 THE COURT: You're welcome.

1 (Prospective juror exits.)

2 (Prospective juror enters.)

3 THE COURT: Good afternoon, Mr. Costa. You may be
4 seated. You're reminded you are still under oath. You may
5 remove your mask if you want to, but you don't have to.

6 Mr. Costa, would serving on this jury cause you
7 financial hardship?

8 PROSPECTIVE JUROR: No, sir.

9 THE COURT: You answered some other questions on the
02:49 10 questionnaire that I need to inquire about. You've said in
11 response to a potential prejudice that people will seek
12 advancement over ethics, and also you said that cooperators get
13 out of being held accountable for bad decisions.
14 Notwithstanding those answers, if the Court were to instruct
15 you that the government is entitled to call people who
16 cooperate with them, would you be able to be fair and impartial
17 in this case or would that impact your ability?

18 PROSPECTIVE JUROR: I don't think it would impact.
19 It's just my point of view from a wealth perspective.

02:50 20 THE COURT: Do you have a prejudice against people of
21 wealth?

22 PROSPECTIVE JUROR: It would be based on category. I
23 think there's an advantage, a higher advantage of that. It
24 just makes my opinion, in a sense, that with more money you get
25 advantage, period.

1 THE COURT: If the evidence were that the defendants
2 in this case were people of some wealth, would that
3 automatically prejudice you against their case notwithstanding
4 the facts that come into this courtroom?

5 PROSPECTIVE JUROR: No.

6 THE COURT: So could you be fair and impartial and
7 judge this case based solely on the evidence that comes into
8 this court regardless of the status of wealth of the
9 defendants?

02:51 10 PROSPECTIVE JUROR: I would hope so that I could do
11 that.

12 THE COURT: You hope so. Only you can be inside your
13 head. I need to know whether you can or you can't.

14 PROSPECTIVE JUROR: Well, I can. Again, I look at
15 things based on how it's said to me, what's presented.

16 THE COURT: On the evidence that comes into the
17 courtroom?

18 PROSPECTIVE JUROR: Well, yeah. I look at it from
19 that perspective. If I can comprehend it and understand it and
02:51 20 know what's going on, then hopefully I can make the right
21 decision based on what I hear.

22 THE COURT: Do you have any doubt for any of the
23 questions that were asked of you in the questionnaire and the
24 answers that you gave, do you have any doubt that you can be
25 fair and impartial in this case?

1 PROSPECTIVE JUROR: I don't know.

2 THE COURT: I appreciate your answer. I'm going to
3 excuse you from this jury. Thank you, Mr. Costa.

4 (Prospective juror exits.)

5 (Prospective juror enters.)

6 THE COURT: Good afternoon, Mr. Callahan. Please be
7 seated. You understand you remain under oath. If you want to
8 remove the mask, you can. You don't have to.

9 Mr. Callahan, would serving on this jury for 4 weeks
02:52 10 cause you any financial hardship?

11 PROSPECTIVE JUROR: No.

12 THE COURT: Would any of the questions or your answers
13 in the questionnaire that you filled out yesterday, a very
14 lengthy questionnaire, give you pause as to whether you could
15 be fair and impartial in this case?

16 PROSPECTIVE JUROR: I can be impartial. I didn't have
17 any questions about that.

18 THE COURT: So you could decide this case based solely
19 on the evidence that comes into this courtroom and not on
02:53 20 anything that's happened outside of the courtroom or what
21 you've heard about the case?

22 PROSPECTIVE JUROR: That's correct.

23 THE COURT: Any questions, Mr. Kelly?

24 MR. KELLY: Yes. Good afternoon. Brian Kelly. I
25 represent Mr. Aziz.

1 Quick question for you on this questionnaire. There's
2 an answer to one of the questions about publicity. Have you
3 seen a lot of publicity about this matter?

4 PROSPECTIVE JUROR: I've seen it on the news, not
5 necessarily this particular matter but other folks who have
6 been involved in this matter, yeah.

7 MR. KELLY: Has what you've seen cause you to come to
8 any conclusions about the people who are in this trial?

9 PROSPECTIVE JUROR: No.

02:54 10 MR. KELLY: So you can approach this from a
11 perspective that you could be fair to both sides, the defense
12 and the government?

13 PROSPECTIVE JUROR: That's correct.

14 MR. KELLY: Do you follow college sports at all?

15 PROSPECTIVE JUROR: Not really.

16 MR. KELLY: That's it. Thanks.

17 THE COURT: Mr. Kendall.

18 MR. KENDALL: If I may have one moment, your Honor.

19 THE COURT: Yes.

02:54 20 MR. KENDALL: Hi. I'm Mike Kendall. I represent John
21 Wilson. Good afternoon.

22 PROSPECTIVE JUROR: Good afternoon.

23 MR. KENDALL: I want to follow-up on the question
24 Mr. Kelly was asking you, 39. Tell us in your own words what
25 did you think of the news media you read, any sort of reaction.

1 PROSPECTIVE JUROR: I honestly didn't give it a whole
2 lot of thought. I know there were a couple of high profile
3 folks, Felicity Huffman and Aunt Becky that I was familiar
4 with. That was really the extent of it. I moved on to the
5 next story. Didn't pay too much attention beyond that.

6 MR. KENDALL: You didn't really care.

7 PROSPECTIVE JUROR: Right.

8 THE COURT: Miss Kearney.

9 MS. KEARNEY: Good afternoon. One question for you.

02:55 10 You indicated on your questionnaire that you previously served
11 on a jury. Is there anything about that experience that would
12 affect your ability to be fair and impartial in this trial?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Thank you, Mr. Callahan. I'm going to
15 leave you in reserve, which means you may or may not be called
16 back for further jury service. In the meantime, do not do any
17 independent research on this case. You can't consult the
18 internet or anything like that. It would be inappropriate.

19 PROSPECTIVE JUROR: Understood.

02:55 20 (Prospective juror exits.)

21 (Prospective juror enters.)

22 THE COURT: Good afternoon, Miss Buttrick. Please be
23 seated. You're reminded that you remain under oath. You may
24 remove the mask if you want to, but you don't have to.

25 PROSPECTIVE JUROR: Thank you.

1 THE COURT: Miss Buttrick, I noticed that you said
2 that you might have a scheduling conflict during the week of
3 October 7th. Is that something that you could not postpone or
4 avoid or is that something you feel you have to do?

5 PROSPECTIVE JUROR: It's a trip with my husband.
6 We've already paid for it.

7 THE COURT: So it's a prepaid vacation.

8 PROSPECTIVE JUROR: It's a bowling tournament. We're
9 on a bowling team together.

02:56 10 THE COURT: You don't want to postpone that.

11 PROSPECTIVE JUROR: I can't postpone it because it's
12 in Columbus, Ohio. I could miss it, however, my husband would
13 be very upset because we bowl together. We're a team.

14 THE COURT: I don't want to get in the middle of a
15 vacation that's prepaid.

16 PROSPECTIVE JUROR: Or married, right?

17 THE COURT: You want to be excused from this jury,
18 right?

19 PROSPECTIVE JUROR: If it would go.

02:57 20 THE COURT: It's going to be that long.

21 PROSPECTIVE JUROR: Then yes.

22 THE COURT: You're excused. Thank you.

23 (Prospective juror exits.)

24 (Prospective juror enters.)

25 THE COURT: Good afternoon, Mr. Wallace.

1 PROSPECTIVE JUROR: Hello. Thank you for having me.

2 THE COURT: Have a seat. You're reminded that you
3 remain under oath. You may remove the mask if you want to, but
4 you don't have to. Would service on this jury, Mr. Wallace,
5 cause you financial hardship?

6 PROSPECTIVE JUROR: Not that I'm aware of.

7 THE COURT: I will take that answer as you feel you
8 could serve for roughly 4 weeks.

9 PROSPECTIVE JUROR: I'd have to talk to my boss. The
02:58 10 answer is yes.

11 THE COURT: That you could serve.

12 PROSPECTIVE JUROR: I can serve.

13 THE COURT: There have been some other questions that
14 you answered on the questionnaire that I think we need to have
15 you embellish a little bit.

16 With respect to the question about antigovernment or
17 defense prejudices, you said that admissions should be based on
18 hard work and achievement, that is admissions to college.

19 PROSPECTIVE JUROR: Correct.

02:59 20 THE COURT: Also, you cite time in sports media. What
21 did you mean by that?

22 PROSPECTIVE JUROR: Could you repeat the question.

23 THE COURT: The question had to do with whether you
24 had any prejudices against the government or the defense that
25 you knew of, and you mentioned that college admissions should

1 be based on hard work and achievement.

2 PROSPECTIVE JUROR: I might have misunderstood the
3 question and might have been referring to things that I've read
4 about scandal with admissions.

5 THE COURT: Would what you've read affect your ability
6 to be fair and impartial in this case, that is could you decide
7 this case solely based upon the evidence that comes into this
8 courtroom and not on the basis of anything that you've read?

9 PROSPECTIVE JUROR: I could do that.

03:00 10 THE COURT: With respect to the defendants testifying
11 or not testifying, you said you think the defendants should
12 have nothing to hide, which I understand you think they ought
13 to testify.

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: But you understand that the law is a
16 defendant does not have to testify.

17 PROSPECTIVE JUROR: I understand.

18 THE COURT: He has a constitutional right not to
19 testify and you cannot consider in your deliberations in this
03:00 20 case whether or not he testified. Do you understand that?

21 PROSPECTIVE JUROR: I understand that.

22 THE COURT: Would you follow that instruction if
23 given?

24 PROSPECTIVE JUROR: Yes.

25 THE COURT: Those are the questions that I would ask.

1 Mr. Kelly, do you have any?

2 MR. KELLY: Yes, your Honor. Good afternoon. Brian
3 Kelly. I represent Mr. Aziz. Let me follow-up quickly if I
4 could.

5 PROSPECTIVE JUROR: Sure.

6 MR. KELLY: With respect to this questionnaire, you
7 said you would have concerns or reservations about your ability
8 or willingness to abide by the rule that you be barred from the
9 media review. You say you use it for your sports business
03:01 10 news. That's why you checked that you'd be concerned. So
11 that's still accurate? You'd have a concern?

12 PROSPECTIVE JUROR: Yes.

13 MR. KELLY: You came to court before you were just
14 instructed with the thought that defendants in a criminal case
15 like this should have nothing to hide and should testify,
16 right?

17 PROSPECTIVE JUROR: My opinion.

18 MR. KELLY: You have a friend or relative retired FBI?

19 PROSPECTIVE JUROR: That's correct.

03:01 20 MR. KELLY: Here in Boston?

21 PROSPECTIVE JUROR: What's his or her name?

22 PROSPECTIVE JUROR: Kris Decore.

23 MR. KELLY: How do you know Agent Decore?

24 PROSPECTIVE JUROR: I've known her for 20 years,
25 through my wife.

1 MR. KELLY: You also indicated on question 21 you are
2 responsible for the operation of over 20 employees, is that
3 right?

4 PROSPECTIVE JUROR: That's right.

5 MR. KELLY: That part of your concern with serving on
6 a 4-week jury?

7 PROSPECTIVE JUROR: My day-to-day business requires me
8 to be with my employees working because we produce a lot of
9 live sports content, so being on site is crucial for me.

03:02 10 MR. KELLY: So it would be a hardship.

11 PROSPECTIVE JUROR: Yes. Financially, no, because my
12 company would take care of me, but for my work, yes.

13 MR. KELLY: From a work perspective, it's a hardship.
14 I guess it would be a hardship for your fellow employees if
15 you're not there.

16 PROSPECTIVE JUROR: That's right.

17 THE COURT: Let me stop you there. Are you asking to
18 be excused for that hardship?

19 PROSPECTIVE JUROR: I will do what the Court thinks is
03:03 20 best. I would like to be excused for that for my employees and
21 for my work, but I don't think that the way this government and
22 the law has been built that that necessarily puts me in a place
23 that I have an option in saying yes or no.

24 THE COURT: I don't want to cause your business or
25 your employees a hardship. If it's going to cause a hardship,

1 I will excuse you. I didn't understand that you were asking to
2 be excused for that hardship.

3 PROSPECTIVE JUROR: I'm a decision-maker on a daily
4 basis.

5 THE COURT: You're excused, Mr. Wallace. Thank you.

6 PROSPECTIVE JUROR: Thank you.

7 (Prospective juror exits.)

8 (Prospective juror enters.)

9 THE COURT: Good afternoon, Miss Pierce.

03:04 10 PROSPECTIVE JUROR: Good afternoon.

11 THE COURT: Please be seated. You're reminded that
12 you remain under oath. You may remove your mask if you want,
13 but you don't have to.

14 Miss Pierce, would serving on this jury cause you a
15 financial hardship?

16 PROSPECTIVE JUROR: No.

17 THE COURT: You mentioned that you saw that
18 documentary on Netflix.

19 PROSPECTIVE JUROR: Yes.

03:04 20 THE COURT: What effect did that have on you and would
21 it affect your ability to be fair and impartial on this case?

22 PROSPECTIVE JUROR: I don't remember too much about
23 it. I don't think it would affect me.

24 THE COURT: Do you understand that at least the
25 defendant believes that there were falsities in that and that

1 that's not fact, that the facts in this case are going to come
2 out in the evidence in this courtroom? Could you decide this
3 case based solely on the evidence that comes out in this
4 courtroom and not on the basis of anything you saw in that
5 Netflix documentary?

6 PROSPECTIVE JUROR: Definitely. Yes.

7 THE COURT: Was there anything else on the
8 questionnaire that gave you pause that you would be able --
9 that you would not be able to decide this case fairly and
03:05 10 impartially?

11 PROSPECTIVE JUROR: No.

12 THE COURT: So you think you could do that? You could
13 be fair and impartial?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: Any questions, Mr. Kelly?

16 MR. KELLY: Just briefly. Good afternoon. Brian
17 Kelly. I represent Mr. Aziz here.

18 Nothing you may have seen in the media gives you any
19 strong feelings either way about this case?

03:06 20 PROSPECTIVE JUROR: No.

21 MR. KELLY: I think I read this correctly, but
22 40 years a teacher?

23 PROSPECTIVE JUROR: Yes. I taught for over 30 years.

24 MR. KELLY: Nothing about that experience would have
25 any effect on you in a case where college admissions stuff is

1 being discussed?

2 PROSPECTIVE JUROR: No.

3 MR. KELLY: How about college sports? Do you follow
4 college sports at all?

5 PROSPECTIVE JUROR: Basketball a little bit.

6 MR. KELLY: Which team?

7 PROSPECTIVE JUROR: I think the -- I can't think of
8 it. I'm sorry.

9 MR. KELLY: It's okay. Men's basketball? Women's
03:06 10 basketball?

11 PROSPECTIVE JUROR: Yes. In March.

12 MR. KELLY: The March madness stuff.

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: Mr. Kendall.

15 MR. KENDALL: Yes, your Honor. Thank you. Good
16 afternoon. I represent John Wilson. My name's Mike Kendall.
17 Just a couple small things.

18 You were honest enough and frank enough to discuss
19 some very painful things about your family being a victim in
03:07 20 some criminal actions. I'm sorry to read that and have to
21 raise it. Has it left you with any views of the criminal
22 justice system?

23 PROSPECTIVE JUROR: No.

24 MR. KENDALL: No particular thoughts in favor of or
25 against the police or anything about court procedures or

1 anything else?

2 PROSPECTIVE JUROR: I see the importance of getting --
3 of getting a lawyer, your own personal lawyer. I don't want to
4 get into it so much about my sister.

5 MR. KENDALL: I don't want to at all.

6 PROSPECTIVE JUROR: We didn't have our own lawyer. I
7 think it's much easier and would have been better than.

8 MR. KENDALL: I don't want to ask about your family
9 issues, just your view of the system.

03:08 10 PROSPECTIVE JUROR: No. I have a son who's an
11 attorney and a daughter-in-law who's an attorney. I'm very
12 proud of the fact that they are. I applaud you all. Yes.

13 MR. KENDALL: Where do they practice and where do they
14 work?

15 PROSPECTIVE JUROR: My son is in Maine and my
16 daughter-in-law is in Minnesota.

17 MR. KENDALL: What type of work do they do as lawyers?

18 PROSPECTIVE JUROR: My son does real estate and my
19 daughter-in-law works for the county.

03:08 20 MR. KENDALL: Great. I saw your husband's retired.
21 What did he do before retirement?

22 PROSPECTIVE JUROR: He was a paralegal before
23 retirement.

24 MR. KENDALL: Where did he work?

25 PROSPECTIVE JUROR: He had a couple of different

1 places. I can't recall.

2 MR. KENDALL: Do you know what type of legal work he
3 did as a paralegal?

4 PROSPECTIVE JUROR: He had three careers. That was
5 his last 5 years. I'm not sure.

6 MR. KENDALL: Did he work for a government agency?

7 PROSPECTIVE JUROR: No.

8 MR. KENDALL: Private lawyer?

9 PROSPECTIVE JUROR: Private.

03:09 10 MR. KENDALL: Thank you.

11 THE COURT: Miss Kearney?

12 MS. KEARNEY: No questions.

13 THE COURT: Thank you, Miss Pierce. I'm going to ask
14 you to be in reserve. You will go with Mr. McAlear. That
15 means you may be called back for further jury duty. Please do
16 not try to do any independent research on this case. You
17 understand that would be inappropriate, correct?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Thank you, Miss Pierce.

03:09 20 (Prospective juror exits.)

21 (Prospective juror enters.)

22 THE COURT: Good afternoon, Mr. Liu. You may be
23 seated. You're reminded that you remain under oath. You may
24 remove the mask if you want, but you don't have to.

25 Mr. Liu, would serving on this jury for 4 weeks cause

1 you any financial hardship?

2 PROSPECTIVE JUROR: Not a financial hardship.

3 THE COURT: So you are willing to serve and it
4 wouldn't affect your job status?

5 PROSPECTIVE JUROR: I need to find out 4 weeks. I
6 need to check with HR. Doing civic duty is part of our company
7 policy, but 4 weeks is something that I don't have any back
8 information on that. I can check with -- I will probably give
9 you a better answer how that would affect me.

03:11 10 THE COURT: We don't want to cause you financial
11 hardship. Employers, especially large ones like you work for,
12 I understand it's Bristol Meyers, is that right?

13 PROSPECTIVE JUROR: Yes.

14 THE COURT: They have an obligation, as citizens, to
15 support their employees who are called for jury duty. Whether
16 or not that means they will pay you full salary for the whole
17 4 weeks, I don't know. They have certain obligations that the
18 Court, in fact, can help support you. In other words, my
19 deputy could call up your superior and say.

03:12 20 PROSPECTIVE JUROR: I would probably be safe then.

21 THE COURT: I think you would be, but I can't
22 guarantee it. I don't want to be understood as guaranteeing
23 it. At least putting that aside for the moment, there were
24 some other matters that you responded to on the questionnaire
25 that I would like to ask you about.

1 One was a question about prejudice against the
2 defendant who did not testify. You said you don't see a strong
3 reason for a defendant not to testify in a case like this.

4 Do you understand that all defendants in criminal
5 cases have a constitutional right not to testify?

6 PROSPECTIVE JUROR: No. I wasn't aware of that.

7 THE COURT: Would you be able to follow an instruction
8 to that effect if I gave it to you in the trial?

9 PROSPECTIVE JUROR: Yes. If it's the right reading of
03:12 10 the law, I will follow.

11 THE COURT: In fact, if you were a juror, I will
12 instruct you that you can't even consider that fact in the
13 deliberation room that a defendant did not testify because
14 defendants have a constitutional right not to testify. So you
15 could follow my instructions if I instructed you in that
16 manner?

17 PROSPECTIVE JUROR: Oh, yeah. You give me the
18 instruction, I would definitely follow it.

19 THE COURT: Is there any reason at all that you think
03:13 20 you would not be able to be fair and impartial in this case?

21 PROSPECTIVE JUROR: I read a little bit in the news
22 about this whole thing they call Varsity Blues. It's this
23 whole college admissions scandal. I do have some emotional
24 component in this. I don't think it's fair. I was reading the
25 news. There are already, how do I say, some people who have

1 already served their term as well. In general, I think it's a
2 bad practice.

3 THE COURT: You've heard that other people have been
4 convicted and went to jail? Is that what you're saying?

5 PROSPECTIVE JUROR: I think so, yeah. I see something
6 like that.

7 THE COURT: That's not these two defendants. These
8 two defendants have independent rights to defend themselves and
9 to present cases. What some other defendant did has no impact
03:14 10 whatsoever on these defendants. Do you understand that?

11 PROSPECTIVE JUROR: After hearing your explanation, I
12 think I understand it now.

13 THE COURT: The question is, could you decide this
14 case solely on the basis of the evidence that comes into this
15 courtroom and not on the basis of what you read about other
16 Varsity Blues cases?

17 PROSPECTIVE JUROR: I think I can. I feel I'm an
18 objective person and I can confine my judgment based on the
19 facts and what I hear and follow your instructions.

03:15 20 THE COURT: That's important. Only you can tell me
21 that. Only you can tell me whether you believe you can be fair
22 and impartial. I can't get inside your head. Can you be fair
23 and impartial?

24 PROSPECTIVE JUROR: I think I can, yes.

25 THE COURT: Any questions, Mr. Kelly?

1 MR. KELLY: Yes. Good afternoon. Brian Kelly for
2 Mr. Aziz.

3 On that last question, you said you think you can be
4 fair but you're not sure.

5 PROSPECTIVE JUROR: That's true. I think I can.

6 MR. KELLY: Given your beliefs coming in, are you
7 certain you can be fair or you just hope you can be fair?

8 PROSPECTIVE JUROR: That's a double question. I think
9 that's an unfair question. Put another one.

03:15 10 MR. KELLY: In the questionnaire, you said "in a case
11 like this I don't see a strong reason for the defendant not to
12 testify." That's your opinion?

13 PROSPECTIVE JUROR: That was my opinion prior to
14 knowing the defendant had a constitutional right that they do
15 not have to testify. With the judge's explanation, I think I
16 would take that out, definitely take back that.

17 MR. KELLY: You could take that completely out of your
18 mind and banish it?

19 PROSPECTIVE JUROR: I think so.

03:16 20 MR. KELLY: You indicated some of these other parents
21 were convicted. Did you comment you thought the prison
22 sentences were too short?

23 PROSPECTIVE JUROR: I did not. I never commented
24 anything.

25 MR. KELLY: Your work responsibilities, what are they?

1 PROSPECTIVE JUROR: My work responsibility? I work in
2 a pharmaceutical company. I work in early research and do
3 discovery, research and discovery for it. I'm leading a couple
4 projects. I'm critical and have pretty high workloads.
5 Basically, from those considerations, if I'm away for like
6 4 weeks, that would be a significant impact to the progress of
7 that.

8 MR. KELLY: If you're away for 4 weeks, it will be a
9 significant impact on what?

03:17 10 PROSPECTIVE JUROR: On the progress of those projects.

11 MR. KELLY: On the progress of the projects?

12 PROSPECTIVE JUROR: Yes.

13 MR. KELLY: Would that be a burden to your
14 professional life?

15 PROSPECTIVE JUROR: A burden to my professional life?
16 It would slow down my professional growth for 4 weeks. Let me
17 put it that way.

18 MR. KELLY: Your professional growth?

19 PROSPECTIVE JUROR: Professional growth for 4 weeks.

03:17 20 MR. KELLY: Has anything that you've seen in the media
21 given you strong feelings against the defense or against the
22 government or anything like that?

23 PROSPECTIVE JUROR: Nothing against the government. I
24 think, in general, I have an unfavorable opinion on the
25 defendants.

1 MR. KELLY: What?

2 PROSPECTIVE JUROR: Unfavorable. I feel the whole
3 practice was wrong.

4 MR. KELLY: So you come to court with that unfavorable
5 impression?

6 PROSPECTIVE JUROR: Yes. Everything that I know to
7 myself at this moment, but I don't think -- I come to the Court
8 with this impression about the whole case, about my personal
9 opinion of the defendants, but at same time, I do think I can
03:18 10 follow the judge's instructions, as I mentioned earlier. I
11 feel confident I can follow the instructions and make my
12 decision based on the facts and the instructions.

13 MR. KELLY: If the judge told you it was the
14 government's burden of proof, you could follow that
15 instruction?

16 PROSPECTIVE JUROR: Could you explain a little bit
17 more about the government's burden of proof.

18 MR. KELLY: I would, but they would object. That's
19 the judge's job. Bottom line is you will follow what this
03:19 20 judge tells you is the law.

21 PROSPECTIVE JUROR: Yes, I will.

22 MR. KELLY: And you feel you can be fair to all sides
23 here?

24 PROSPECTIVE JUROR: I feel I can, yes.

25 MR. KELLY: Okay.

1 THE COURT: Mr. Kendall.

2 MR. KENDALL: Yes, your Honor. In your answer, you
3 were kind enough to be very frank with us and mentioned
4 something about the emotional component of your reaction to
5 this case. Is that what you've discussed already or is there
6 something else that fits within that description of what you
7 said with an emotional component?

8 PROSPECTIVE JUROR: The emotional component I just
9 mentioned, right.

03:20 10 MR. KENDALL: So you've discussed it.

11 PROSPECTIVE JUROR: I don't think we discussed it.
12 It's just like an unfavorable. I don't think that we discussed
13 it. I do not like the whole admission fraud practice actions,
14 whatever.

15 MR. KENDALL: If we were to start this trial, would
16 you start this trial presuming that they're innocent and
17 they've done nothing wrong and you're just having an open mind
18 to the evidence?

19 PROSPECTIVE JUROR: I think I would be able to adjust
03:20 20 my mind to that if I have opportunity to sit on a jury, yeah.

21 MR. KENDALL: So you feel strongly that you would
22 start this trial thinking they've done nothing wrong and
23 they're presumed innocent?

24 PROSPECTIVE JUROR: I think I would be able to do
25 that.

1 MR. KENDALL: Thank you. The last question I wanted
2 to ask is you said in your questionnaire about an issue of
3 responsibilities, your job responsibilities would have an
4 impact on. Does it impact the team you manage or other people
5 or is it just your own person being effected by this? Is it a
6 whole group of researchers or team members slowed down or just
7 you?

8 PROSPECTIVE JUROR: 60 percent on me and 40 percent on
9 the team.

03:21 10 THE COURT: Miss Kearney?

11 MS. KEARNEY: No questions, your Honor. Thank you.

12 THE COURT: Mr. Liu, I'm going to reserve you. That
13 means that you will go with Mr. McAlear. You may be called
14 back for further jury duty. You are instructed not to make any
15 kind of investigation. You're not to go online. You
16 understand that would be inappropriate because if you are
17 selected to be a juror, you will decide this case solely based
18 on the evidence that comes into this courtroom and not on
19 anything that comes in from outside. You understand?

03:22 20 PROSPECTIVE JUROR: I understand.

21 THE COURT: Thank you, Mr. Liu.

22 (Prospective juror exits.)

23 THE COURT: Mr. Kelly?

24 MR. KELLY: I'd move to strike this juror he said on
25 his questionnaire when he had time to reflect, and he's got a

1 Ph.D., he wrote "in a case like this I don't see any strong
2 reason for the defendant not to testify." That's his mind-set
3 coming in. I think some of the other things he said suggests
4 to me that he'd have a difficult time, although he would try
5 mightily, he would say he'd try to follow instructions.

6 THE COURT: He didn't say try. He said he would.

7 MR. KELLY: He said that, Judge. My concern is that
8 he might not be able to continue that. That's the request for
9 the record.

03:23 10 THE COURT: Mr. Kendall.

11 MR. KENDALL: I feel the same way, your Honor. He's a
12 remarkably brilliant, accomplished man. He's very responsible.
13 He's very respectful of the legal system, but I think it was
14 clear he's overcoming emotional and predispositions because
15 he's trying to do what's correct. I respect him for that. He
16 kept on saying "I think, I think". Your Honor, given the
17 emotions of this case and a much more elevated case with high
18 emotions and social issues, I think someone who's that frank
19 about wanting to do the right thing but being emotionally
03:23 20 disclosed to being compromised and human, I do think he should
21 be excused.

22 THE COURT: Miss Kearney.

23 MS. KEARNEY: Your Honor, the prospective juror
24 acknowledged he was not aware defendants did not have to
25 testify. As soon as you alerted him to that, he said he would

1 follow your instructions. I wrote down he said he was
2 confident he could follow your instructions.

3 THE COURT: I'm not going to excuse him for cause.
4 We'll go on to the next one.

5 MR. FRANK: Your Honor, just briefly, the questioning
6 there was bordering on cross-examination. It was repetitive,
7 over and over on topics your Honor had already explored. Both
8 defendants explored it in exquisite detail.

9 THE COURT: For instance what?

03:24 10 MR. FRANK: For instance, on whether the juror could
11 be fair and impartial. There must have been 15 questions on
12 that topic. He answered them again and again and again. I
13 think it was excessive.

14 MR. KELLY: Just for the record, your Honor,
15 Miss Kearney did not object and, to date, we've been very --

16 THE COURT: Before you speak, Mr. Kelly, I'm going to
17 defend you.

18 MR. KENDALL: Me too, I hope, your Honor.

19 THE COURT: I don't think that was uncalled for on
03:25 20 this particular juror. I agree that under normal circumstances
21 that would have been excessive, but this juror did have some
22 doubts that I think were clarified by the questions that I
23 asked and that later defense counsel asked. I'm not going to
24 criticize them for that examination. I agree they don't need
25 to go that far with most potential jurors.

1 MR. FRANK: Thank you, your Honor. In particular on
2 the hardship issue, he said there was no hardship and then they
3 started exploring what the impact would be on people at Bristol
4 Meyers Squibb. It's a lot.

5 THE COURT: Your objection is noted. Bring the next
6 one in.

7 (Prospective juror enters.)

8 THE COURT: Good afternoon, Mr. Day. You're reminded
9 you remain under oath. If you'd like to, you can take your
03:26 10 mask off, but you don't have to.

11 Would service on this jury cause you any financial
12 hardship, Mr. Day?

13 PROSPECTIVE JUROR: No.

14 THE COURT: You say in response to one question that
15 you were somewhat uncomfortable on passing judgment on
16 somebody. Would you explain that a little bit.

17 PROSPECTIVE JUROR: Just the feeling.

18 THE COURT: It's not a religious side?

19 PROSPECTIVE JUROR: No.

03:27 20 THE COURT: Just a feeling of passing judgment on a
21 fellow human being?

22 PROSPECTIVE JUROR: Right.

23 THE COURT: Notwithstanding that feeling, if the
24 government proves its case beyond a reasonable doubt, would you
25 have any trouble in finding the defendants guilty?

1 PROSPECTIVE JUROR: I don't think -- no.

2 THE COURT: If the government does not prove its case
3 beyond a reasonable doubt, would you have any problem in
4 finding them not guilty?

5 PROSPECTIVE JUROR: No. Despite my feelings, I think
6 it would be my duty to do that.

7 THE COURT: Fair enough. You would understand that
8 you'd have to follow the instructions of the Court whether you
9 believe in them or not, is that right?

03:27 10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Could you decide this case solely based on
12 the evidence that comes into this courtroom and not on the
13 basis of any prior conception about this case or anything that
14 you've heard about it?

15 PROSPECTIVE JUROR: I think so. I don't know much
16 about the case at all.

17 THE COURT: So the answer to that question is yes?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Those are my questions. Mr. Kelly, do you
03:28 20 have any?

21 MR. KELLY: Just briefly. Good afternoon. Brian
22 Kelly. I represent Mr. Aziz here.

23 This case will involve a lot of discussion about
24 college sports teams. Do you follow college sports at all?

25 PROSPECTIVE JUROR: Some.

1 MR. KELLY: Which sports?

2 PROSPECTIVE JUROR: Basketball, track and field. I
3 ran track and field in college.

4 MR. KELLY: Men's basketball, women's?

5 PROSPECTIVE JUROR: Men's.

6 THE COURT: Mr. Kendall.

7 MR. KENDALL: Yes. I'm Mike Kendall. I represent
8 John Wilson.

9 What did you run in track?

03:28 10 MR. KENDALL: 2 miles, 3 miles. It was the 70s.

11 THE COURT: Miss Kearney.

12 MS. KEARNEY: Good afternoon, Mr. Day. The judge
13 asked you some questions regarding your answer about being
14 uncomfortable passing judgment. I just had one follow-up
15 question. If the judge is instructing you the government has
16 to prove its case beyond a reasonable doubt but is not beyond
17 all doubt, would you be comfortable following that instruction?

18 PROSPECTIVE JUROR: I think I understand the
19 reasonable doubt rule, so I think I can, yeah.

03:29 20 MS. KEARNEY: Would you be able to follow the judge's
21 instructions?

22 PROSPECTIVE JUROR: Yes.

23 THE COURT: Thank you, Mr. Day. You are in reserve,
24 which means that you'll go with Mr. McAlear here. You may be
25 called back for further jury duty. Please do not do any

1 research on the case or anything on the internet. You
2 understand the reasons why you shouldn't do that?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Thank you.

5 (Prospective juror exits.)

6 (Prospective juror enters.)

7 THE COURT: Good afternoon, Mr. Miller. Please be
8 seated. You understand you remain under oath. If you'd like
9 to remove your mask, you may, but you don't have to.

03:30 10 Mr. Miller, would serving on this jury cause you a
11 financial hardship?

12 PROSPECTIVE JUROR: I don't think so, no.

13 THE COURT: Is there anything in the questionnaire of
14 those 49 questions you were asked to answer in writing
15 yesterday that gives you pause that you would be able to decide
16 this case fairly and impartially? Could you do that?

17 PROSPECTIVE JUROR: Yes, I could.

18 THE COURT: You could decide this case solely based on
19 the evidence that comes into this courtroom and not on the
03:30 20 basis of anything else you've heard about the case outside this
21 courtroom?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Any questions, Mr. Kelly?

24 MR. KELLY: Briefly. Good afternoon, sir. My name is
25 Brian Kelly. I represent Mr. Aziz. Do you follow college

1 sports at all?

2 PROSPECTIVE JUROR: Yes.

3 MR. KELLY: Which sports?

4 PROSPECTIVE JUROR: Everything.

5 MR. KELLY: All of them?

6 PROSPECTIVE JUROR: Yes.

7 MR. KELLY: Thanks.

8 THE COURT: Mr. Kendall?

9 MR. KENDALL: Good afternoon. No questions. Thank
03:31 10 you.

11 THE COURT: Miss Kearney.

12 MS. KEARNEY: Good afternoon. You indicated you
13 served on a jury before.

14 PROSPECTIVE JUROR: Yes.

15 MS. KEARNEY: Was there anything about that experience
16 that would affect your ability to be fair and impartial in this
17 trial?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Thank you, Mr. Miller. That means you're
03:31 20 in reserve. You'll go with Mr. McAlear and you may be called
21 for further jury duty. Please understand that you're not to do
22 any research about this case or go on the internet. That would
23 be totally inappropriate because you're going to decide this
24 case, if you're ultimately chosen as a juror, based upon the
25 evidence that comes into this courtroom only. All right?

1 PROSPECTIVE JUROR: Yes, sir. Thank you.

2 (Prospective juror exits.)

3 (Prospective juror enters.)

4 THE COURT: Good afternoon, Miss Brickley. You
5 understand you're still under oath. You may remove your mask
6 if you want to, but you don't have to.

7 Would serving on this jury cause you a financial
8 hardship?

9 PROSPECTIVE JUROR: No.

03:34 10 THE COURT: You mentioned as a former student
11 athlete -- maybe I should inquire. What was your sport?

12 PROSPECTIVE JUROR: Soccer.

13 THE COURT: Where did you play?

14 PROSPECTIVE JUROR: NYU.

15 THE COURT: Division 1?

16 PROSPECTIVE JUROR: Division 3.

17 THE COURT: But you find it offensive that people took
18 spots from active players. Would that affect your ability to
19 be fair and impartial, understanding that these two defendants
03:34 20 have not had their day in court and that they're entitled to it
21 and whatever any other defendant has done in this case is
22 totally irrelevant to their defense? Could you abide by that
23 instruction from this Court?

24 PROSPECTIVE JUROR: So I've served on a jury before.
25 Going in, it was a state case. Going in, completely understand

1 innocent until proven guilty. The only thing about this case
2 is tricky because I've had conversations about it with family,
3 with teammates, with coaches. I think it would be hard
4 personally for me going into it just having had all these
5 conversations before to take on that viewpoint of innocent
6 until proven guilty.

7 THE COURT: In other words, you couldn't put all those
8 conversations behind you and decide this case solely based on
9 the evidence that comes into this courtroom?

03:35 10 PROSPECTIVE JUROR: I think it would be hard.

11 THE COURT: We can't get in your head. Only you can
12 tell me if you can be fair and impartial. If you can't, that's
13 the honest thing to tell me. I ask you one final time. Could
14 you be fair and impartial in this case with the, quote, baggage
15 that you're bringing with you?

16 PROSPECTIVE JUROR: I think others could be more fair
17 and impartial.

18 THE COURT: Fair enough. I'm going to excuse you,
19 Miss Brickley. Thank you for your candor. You're excused.

03:36 20 (Prospective juror exits.)

21 THE COURT: Counsel, we're going to do about three
22 more and then we'll caucus. Sorry. We're going to do four
23 more.

24 (Prospective juror enters.)

25 THE COURT: Good afternoon, Mr. Pandey. Is that how

1 you pronounce the name?

2 PROSPECTIVE JUROR: Yes. That's fine.

3 THE COURT: Please be seated. You are reminded that
4 you are under oath. You can take your mask off, but you don't
5 have to.

6 You mentioned you might have to travel because of an
7 ill mother overseas.

8 PROSPECTIVE JUROR: Yes. My mother lives in Mumbai,
9 India. She's not ill right now but she's 80 plus and with all
03:37 10 the things going on, potentially, I could have to go back. I'm
11 not sure. If she's sick, then I have to go.

12 THE COURT: There's nobody there to care for her?

13 PROSPECTIVE JUROR: Yeah. They're not in Mumbai. My
14 sister is not in the state right now. If she's ill, I'll have
15 to travel.

16 THE COURT: I take it you would be uncomfortable in
17 having to serve on this jury for 4 weeks?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: I'm going to excuse you, Mr. Pandey. I
03:37 20 hope at another time you'll be willing to serve on a jury
21 because it's a very important civic duty that you have. It
22 sounds to me like this is an inconvenient, inappropriate time
23 for you to have to serve. You're excused.

24 PROSPECTIVE JUROR: Thank you.

25 (Prospective juror exits.)

1 (Prospective juror enters.)

2 THE COURT: Good afternoon, Miss Withem. Please be
3 seated. You're reminded that you remain under oath. If you
4 would like to remove the mask, you may, but you don't have to.

5 Miss Withem, would serving on this jury for 4 weeks
6 cause you a financial hardship?

7 PROSPECTIVE JUROR: Yes, it would.

8 THE COURT: I don't want to cause you financial
9 hardship, therefore I'm not going to require you to sit on this
03:39 10 jury. I do want you to serve on a jury sometime because it's a
11 very important civic responsibility, but this one seems like
12 it's going to be inconvenient for you and going to cause you
13 some hardship, and I don't want to do that. You're excused,
14 Miss Withem. Thank you.

15 (Prospective juror exits.)

16 (Prospective juror enters.)

17 THE COURT: Good afternoon, Mr. McDavitt. Please be
18 seated. Please understand that you are still under oath.
19 Also, if you want to remove the mask, you may, but you don't
03:40 20 have to.

21 Mr. McDavitt, would serving on this jury for 4 weeks
22 cause you any financial hardship?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Was any of the questions on that long
25 questionnaire that you had to fill out yesterday give you pause

1 as to whether you could fairly and impartially decide this
2 case?

3 PROSPECTIVE JUROR: No.

4 THE COURT: You think you could do that?

5 PROSPECTIVE JUROR: I do.

6 THE COURT: Decide this case solely on the basis of
7 evidence that comes into this courtroom and not anything you've
8 heard outside the courtroom?

9 PROSPECTIVE JUROR: Yes.

03:40 10 THE COURT: Those are my questions. Mr. Kelly?

11 MR. KELLY: Briefly. My name is Brian Kelly. I
12 represent Mr. Aziz.

13 There will be a lot of discussion about college sports
14 in this case. Are you a college sports fan?

15 PROSPECTIVE JUROR: Not so much.

16 MR. KELLY: More professional?

17 PROSPECTIVE JUROR: More professional.

18 THE COURT: Mr. Kendall?

19 MR. KENDALL: Good afternoon. I'm Mike Kendall. I
03:41 20 represent John Wilson.

21 Just two things. You responded to question 39 that
22 you've heard about this in passing on the local news.

23 PROSPECTIVE JUROR: Correct.

24 MR. KENDALL: Any reaction to it?

25 PROSPECTIVE JUROR: Not so much at the time. Didn't

1 really.

2 MR. KENDALL: You worked at Med Tech for 11 years.
3 Can you tell us what you do, what your job involves.

4 PROSPECTIVE JUROR: Sure. We do medical sales, so for
5 office and hospital facilities.

6 MR. KENDALL: You write code or?

7 PROSPECTIVE JUROR: I have in the past. People who
8 work for me write code.

9 THE COURT: Miss Kearney?

03:41 10 MS. KEARNEY: Good afternoon. You indicated you
11 previously served on a jury. Is there anything about that
12 experience that would affect your ability to be fair and
13 impartial in this case?

14 PROSPECTIVE JUROR: No.

15 MS. KEARNEY: You also mentioned your mother-in-law
16 was a victim of a crime. Do you feel she was treated fairly by
17 the criminal justice system?

18 PROSPECTIVE JUROR: I do.

19 MS. KEARNEY: Is there anything about that experience
03:42 20 that would affect your ability to be fair and impartial?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Thank you, Mr. McDavitt. I'm going to
23 reserve your attendance, which means you may get called back
24 for further jury duty. In the meantime, however, you're not to
25 do any research or go on to the internet and find out more

1 about this case. That would be inappropriate because if you
2 are selected to be a juror, you're going to decide the case
3 solely on the basis of the evidence that comes into this
4 courtroom. You understand that?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Thank you.

7 (Prospective juror exits.)

8 (Prospective juror enters.)

9 THE COURT: Good afternoon, Mr. Hughes.

03:43 10 PROSPECTIVE JUROR: Good afternoon.

11 THE COURT: Please be seated. Understand that you
12 remain under oath. If you would like to take the mask off, you
13 may, but you don't have to.

14 Mr. Hughes, would serving on this jury for 4 weeks
15 cause you financial hardship?

16 PROSPECTIVE JUROR: Not really.

17 THE COURT: So you would be willing to serve and it's
18 not going to affect your ability to make a living?

19 PROSPECTIVE JUROR: No.

03:44 20 THE COURT: There were some other questions you
21 answered in the questionnaire that you said I think in response
22 to the anti-cooperator question that you do not believe in plea
23 bargaining and think that, if you do a crime, you should have
24 to face full consequences.

25 PROSPECTIVE JUROR: I understand the reason for plea

1 bargaining. You get a small fish to give up to get a bigger
2 fish. I would have a hard time trusting that person that are
3 going to sell their persons out. Why should I believe anything
4 that they say? I would have a problem with that.

5 THE COURT: You don't think, no matter what a
6 cooperator said, that you could believe him or her.

7 PROSPECTIVE JUROR: I'd have a hard time believing
8 them, yeah. Just back of my mind I'd be thinking this guy's
9 going to say anything he can say to save himself.

03:45 10 THE COURT: Is there anything else in the
11 questionnaire, any other questions that you were asked, that
12 give you pause as to whether or not you could be fair and
13 impartial in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: So I ask you, do you think you could be
16 fair and impartial and decide this case based on the evidence
17 that comes into the courtroom for this case?

18 PROSPECTIVE JUROR: I could.

19 THE COURT: Mr. Kelly.

03:45 20 MR. KELLY: Just briefly. My name is Brian Kelly. I
21 represent Mr. Aziz here. If the judge instructs you on what is
22 the law, you'd follow what the judge told you?

23 PROSPECTIVE JUROR: Absolutely.

24 MR. KELLY: You played hockey?

25 PROSPECTIVE JUROR: Yes.

1 MR. KELLY: Would that affect your judgment if we're
2 talking a lot about sports?

3 PROSPECTIVE JUROR: No.

4 MR. KELLY: Are you a college sports fan besides
5 college hockey?

6 PROSPECTIVE JUROR: I'm a sports fan in general.

7 MR. KELLY: Nothing further.

8 THE COURT: Mr. Kendall?

9 MR. KENDALL: No further questions.

03:46 10 THE COURT: Miss Kearney.

11 MS. KEARNEY: Good afternoon, Mr. Hughes. You had
12 indicated that you understood that plea bargaining happens and
13 there's a small fish used to get a bigger fish. Does your
14 opinion change if it was a big fish used to get other big fish?

15 PROSPECTIVE JUROR: For me, it's just if somebody's
16 making a deal, if somebody's been involved in nefarious
17 activity and they're making a deal to better themselves, I have
18 a hard time believing that person. It seems somebody like that
19 would just say whatever they needed to say. I would have a
03:46 20 hard time believing somebody like that.

21 MS. KEARNEY: So when the judge asked if you could be
22 fair and impartial, does that factor in that you would have a
23 hard time listening to the testimony of potential cooperators?

24 PROSPECTIVE JUROR: When all the facts come out, I'll
25 look at all the facts and make a decision. Regardless of what

1 anybody says, I'll listen to the facts and make a decision.

2 MS. KEARNEY: Have you ever been involved in the
3 criminal justice system yourself?

4 PROSPECTIVE JUROR: No. As far as what?

5 MS. KEARNEY: Have you ever been arrested or charged
6 with a crime?

7 PROSPECTIVE JUROR: I've been arrested before.

8 MS. KEARNEY: When was that?

9 PROSPECTIVE JUROR: I don't know. It was a long time
03:47 10 ago. 90s. All the charges were dropped.

11 MS. KEARNEY: Thank you, sir.

12 THE COURT: Thank you, Mr. Hughes. I will hold you in
13 reserve. That means you will go with McAlear. You may be
14 called back for further jury duty. In the meantime, please do
15 not do any research or go into the internet about this case.
16 That would be entirely inappropriate because if you are
17 selected to be a juror, you'd be asked to decide this case on
18 the basis of evidence that comes into this courtroom and not
19 anything outside. Do you understand that?

03:48 20 PROSPECTIVE JUROR: I do.

21 THE COURT: Thank you, Mr. Hughes.

22 PROSPECTIVE JUROR: I don't have to call tonight?

23 THE COURT: Mr. McAlear will tell you. You may well.

24 (Prospective juror exits.)

25 THE COURT: Miss Kearney?

1 MS. KEARNEY: Yes, your Honor. The government moves
2 to strike Juror No. 110 for cause. He indicated both in his
3 questionnaire as well as here that he would have difficulty
4 listening to the testimony of cooperators. While he did
5 indicate on questioning that he could be fair and impartial,
6 I'm concerned with his candid because, also in his
7 questionnaire, he did not disclose that he had ever been
8 arrested and it was only when pressed here that he acknowledged
9 it. So if he's not being candid about that, I'm also concerned
03:49 10 about whether he can put aside his feelings about people who
11 cooperate with the government.

12 MR. KELLY: Your Honor, I do not think this rises to
13 the level of striking for cause. He was candid. The charges
14 were dismissed in the 90s. It's almost 30 years now. He
15 didn't hide his conviction. He was arrested and charges were
16 dismissed. He said he'd listen to the evidence and make a
17 decision then, which is what I hope most jurors will do. From
18 our perspective, he's not subject to challenge for cause.

19 THE COURT: Mr. Kendall?

03:49 20 MR. KENDALL: The only thing I would add in, your
21 Honor, is his candid response for a person with no exposure to
22 the legal system wasn't so far from the First Circuit patent
23 jury instruction. He'd be skeptical. People who make deals, I
24 don't know exactly your instruction on the topic, but I think
25 there's a sense they're allowed to be skeptical. What he said

1 is he'll listen to the judge. This guy was a cop for 6 years
2 in the military. He understands the role of a judge and the
3 deference to a judge.

4 Second, he said he'll base this decision on all of the
5 evidence, which means corroboration, other people coming in,
6 the type of things the government tries to do with his
7 informants is what he's looking to see.

8 THE COURT: Miss Kearney?

9 MS. KEARNEY: Your Honor, he didn't just say he would
03:50 10 follow along with the First Circuit patent instructions on
11 cooperators. He actually said he would have a problem with
12 people who sell their friends out.

13 Also, this wasn't an arrest where charges were
14 dismissed. It resulted in a continuation without a finding.
15 According to his record, there was actually a jury trial before
16 he pled. That was one of two incidents he had. He had a
17 separate one in 2007 for operating after a suspended
18 registration. Given that, the government wishes to strike for
19 cause.

03:51 20 THE COURT: I'm going to deny the government's motion.
21 I will not strike him for cause. That was a close call, but I
22 think he did answer my questions sufficiently to allow him with
23 my instructions to follow them and to be fair and impartial.
24 I'm not going to strike him for cause.

25 Counsel, it's now ten of four. We're not going to

1 make it to the magic number of 40. The way I count it, and
2 maybe Mr. McAlear will correct me, but I think we have 33 or
3 maybe 34 cleared jurors.

4 MR. MCALEAR: I have 35, your Honor.

5 THE COURT: That is short of what I want to have. We
6 need to have counsel advise us on the second tranche. We are
7 certainly not going to need to call in as many as we called in
8 today. In fact, I think we would be safe in calling no more
9 than 30 jurors tomorrow. I would like cooperation from counsel
03:52 10 to agree on the 30 that we can call from the second tranche.
11 You've got an hour to do that, Mr. McAlear?

12 MR. MCALEAR: I would say so.

13 THE COURT: Let's reconvene here at quarter of five,
14 4:45, at which point I am hopeful that counsel will be able to
15 give me a list of 30 names from second tranche to call for
16 tomorrow. I don't know how you're going to get there. We
17 don't need a hundred. We don't need everybody who's not
18 subject to a hardship excuse. I think we'll be able to reach
19 the number of 40 cleared jurors by sometime mid to late morning
03:53 20 tomorrow. We will then go to the following phase of picking a
21 jury after the exercise of peremptory challenges. Any
22 comments?

23 MR. KELLY: Quick question, your Honor, a suggestion
24 perhaps. Can we give you 20 names? It will make it quicker.
25 We have ten left. There's ten people left in the first

1 tranche.

2 THE COURT: Is that right, we have ten left?

3 MR. MCALEAR: Yes.

4 THE COURT: You were saying 30 from the new group or
5 30 total?

6 MR. MCALEAR: I was saying 30 from the new group, but
7 I didn't know how quickly they could go through. I don't think
8 we need 40 jurors. If it's going to include people they have
9 agreed upon and get rid of jurors that are not going to be
03:54 10 needed, then that number would then come down.

11 THE COURT: Mr. Kelly.

12 MR. KELLY: How about we do 25? We have 45 minutes.
13 I'm mindful of the deadline.

14 MR. FRANK: 20 or 25 is fine with us, Judge. I wanted
15 to clarify. We skipped a bunch.

16 THE COURT: We skipped only because we needed to
17 address this particular one. We're going to go back to number
18 104, I believe, we were up to.

19 MR. MCALEAR: He was struck.

03:55 20 THE COURT: We'll start with 105. We have about ten
21 more on that list.

22 I want to end up with 25 total, in other words, 15 new
23 ones.

24 MR. FRANK: Okay.

25 MR. KENDALL: Ten from tranche one, 15 from tranche

1 two.

2 THE COURT: Yes. We're in recess until 4:45, unless
3 you come to a decision before then. Let my deputy know if you
4 have.

5 (Recess taken from 3:55 to 4:57 p.m.)

6 THE COURT: Good afternoon, counsel. I understand
7 you're having a bit of a problem. I've got a suggestion that I
8 think might resolve it. We only need a few numbers to be able
9 to get the final five or six. The tranche number two includes
04:57 10 104 names. The first number is 118, I believe. I am going to
11 propose that we randomly call numbers 118 through 137, no
12 matter who they are or what their responses are. Out of those
13 20, in addition to the ten that we have already coming back
14 tomorrow, we should be able to fill the remaining five seats of
15 cleared jurors. Why doesn't that work?

16 MR. FRANK: I think that works, Judge.

17 MR. KELLY: That works very well.

18 THE COURT: Mr. Kendall?

19 MR. KENDALL: Your Honor, while we have disagreements,
04:58 20 there were a bunch in the first 20 that we both agreed had
21 hardship issues or other issues.

22 THE COURT: If you can agree what numbers those are,
23 we can avoid them.

24 MR. KENDALL: We can give you those numbers.

25 THE COURT: That's fine. How many of the first 20?

1 MR. KENDALL: We believe nine of the first 20 are
2 hardship.

3 THE COURT: We'll take those nine out. Having sort of
4 prearranged this, we don't need nine more. We'll take five
5 more. We'll take 138 through 142, if that's five more.

6 MR. KENDALL: May we check to see if we agreed on
7 those two?

8 THE COURT: Of course.

9 MR. FRANK: Judge.

04:59 10 THE COURT: Wait a minute. There's a lack of
11 agreement here.

12 MR. FRANK: We gave them a list of people who
13 literally said we have a hardship. We gave them that list,
14 which we stayed up late last night compiling. They went
15 through from that starting point and decided who they wanted.
16 Now they're giving the Court that list. That's not fair.

17 MR. KENDALL: Your Honor, I think it's a little bit
18 different than that. We have a list here of about 23 people
19 that they said was fine to bring back that we agreed is fine to
04:59 20 bring back. We took out hardships. They took out and we went
21 along with most people that had arrests that didn't lead to
22 convictions, which you had let on today. There was maybe one
23 we disagreed with. Then there was some people who said they
24 hated the rich or things like that that we didn't agree with
25 them on that. We have 23 people that both sides put on their

1 list.

2 MR. FRANK: We don't have a list. That's not true,
3 Judge. We don't have a list. We put a list of people who
4 claimed hardship.

5 MR. KELLY: I think it gets back to the Court's
6 original proposal. Why don't we take that number. If there's
7 one we agree on striking, the first 20 in the next tranche.

8 THE COURT: Do you agree, Mr. Frank, about any of
9 those 20 between 118 and 137 that should be stricken for
05:00 10 hardship?

11 MR. FRANK: We have a list of eight people in that
12 group that are hardships.

13 THE COURT: Do those coincide with the defendants'
14 list?

15 MR. FRANK: I don't know because I haven't seen the
16 defendants' list.

17 MR. KENDALL: We counted more hardships in that group,
18 your Honor.

19 THE COURT: I'm going to take the eight that you agree
05:00 20 on. We are going to call enough so we will have 20 jurors show
21 up tomorrow. If my arithmetic is right, we're going to go 118
22 through 145. Is that about right? We're going to eliminate
23 the eight names that you both agree are hardships. We're going
24 to end up with 20 people from tranche No. 2.

25 MR. KENDALL: I believe there were nine hardships.

1 MR. FRANK: If you go that high, there's one
2 additional number. If we go 118 to 146, that will exclude nine
3 numbers.

4 THE COURT: 118 to 146. We will exclude nine of those
5 numbers who the parties have agreed are hardships.

6 MR. KENDALL: Okay.

7 THE COURT: All right? Everybody on the same page?

8 MR. FRANK: Thank you, Judge.

9 THE COURT: Mr. Kelly?

05:01 10 MR. KELLY: Absolutely.

11 THE COURT: Mr. Kendall?

12 MR. KENDALL: We're all on your page, yes, your Honor.

13 THE COURT: All right. Mr. Frank.

14 MR. FRANK: Yes, your Honor.

15 THE COURT: We're going to call 118 through 146 with
16 nine names agreed upon by counsel that will be eliminated from
17 those. We will, hopefully, end up with about 25 people.

18 Anything else that needs to come to my attention
19 before we adjourn for the day? We will reconvene tomorrow
05:02 20 morning at 9:00 a.m.

21 MR. FRANK: Thank you, your Honor.

22 MR. KENDALL: Thank you, your Honor.

23 MR. KELLY: Thank you, your Honor.

24 THE COURT: We're in recess.

25 (Whereupon, the proceedings adjourned at 5:02 p.m.)

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS)

I, Kristin M. Kelley, certify that the foregoing is a
correct transcript from the record of proceedings taken
September 9, 2021 in the above-entitled matter to the best of
my skill and ability.

/s/ Kristin M. Kelley

November 2, 2021

Kristin M. Kelley, RPR, CRR
Official Court Reporter

Date